



भारत का राजपत्र

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म. 46] नई दिल्ली, नवम्बर 9—नवम्बर 15, 2014, शनिवार/कार्तिक 18—कार्तिक 24, 1936
No. 46] NEW DELHI, NOVEMBER 9—NOVEMBER 15, 2014, SATURDAY/KARTIKA 18—KARTIKA 24, 1936

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

स्वास्थ्य एवं परिवार कल्याण मंत्रालय

(स्वास्थ्य एवं परिवार कल्याण विभाग)

शुद्धि पत्र

नई दिल्ली, 24 सितम्बर, 2014

का. आ. 28८।—इस विभाग की दिनांक 1 जुलाई, 2014 की अधिसूचना सं. यू.-12012/557/2014-एमई(पी-II) के क्रम में भारतीय
उक्तिसा परिषद अधिनियम, 1956 (1956 का 102) के खण्ड 11 के उप-खण्ड (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार,
उक्त अधिनियम की प्रथम अनुसूची में निम्नलिखित संशोधन करती हैं, नामतः :—

विश्वविद्यालय का नाम निम्नानुसार पढ़ा जाए :

“बीर कुंवर सिंह विश्वविद्यालय सासाराम, बिहार” को बजाय “बीर कुंवर सिंह विश्वविद्यालय, आरा, बिहार”

[सं. यू.-12012/557/2014-एमई(पी-II)]
सुधीर कुमार, अवर सचिव

MINISTRY OF HEALTH AND FAMILY WELFARE

(Department of Health and Family Welfare)

CORRIGENDUM

New Delhi, the 24th September, 2014

S.O. 2881.—In continuation to this Department's Notification No. U-12012/557/2014-ME (P. II) dated 01.10.2014 and in exercise of the powers conferred by sub-section (2) of the section 11 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government hereby makes the following further amendments in the First Schedule to the said Act, namely :—

The name of University may be read as follows :

“**Veer Kunwar Singh University, Ara, Bihar**” instead of “**Veer Kunwar Singh University, Sasaram, Bihar**”

[No. U. 12012/557/2014/MED]
SUDHIR KUMAR, U...

भारी उद्योग और लोक उद्यम मंत्रालय

(भारी उद्योग विभाग)

नई दिल्ली, 13 नवम्बर, 2014

का. आ. 2882.—सार्वजनिक परिसर (अनधिकृत रहने वालों की बेदखली) अधिनियम, 1971 (1971 का 40) की प्रदत्त शक्तियों का प्रयोग करते हुए, केंद्र सरकार इस विभाग की दिनांक 30.10.2009 और 12.11.2013 की फा. सं. 1 (12)/2009-2013 अन्तर्गत जारी अधिसूचना के अनुक्रम में एतद्वारा नीचे दी गई सारणी के कॉलम-1 में उल्लिखित अधिकारियों को, राजपत्रित समकक्ष होने के बाते, उक्त अधिनियम के प्रयोजनों के लिए संपदा अधिकारी नियुक्त करती है, जो प्रदत्त शक्तियों का प्रयोग करते हुए सारणी के कॉलम-2 में विनिर्दिष्ट सार्वजनिक परिसरों के संबंध में अपने अधिकार-क्षेत्र की संबंध में कर्तव्यों का प्रयोग करते हुए।

अधिकारी का नाम व पदनाम

सार्वजनिक परिसरों के कार्य तथा अधिकार-क्षेत्र की स्थिति

श्री हरिशंकर चट्टोपाध्याय, कार्मिक और उपनगर अधिकारी,
स्टॉफ सं. 5566 के स्थान पर

(i) परिसर हिन्दुस्तान केबल्स लिमिटेड, रूपनारायणपुर
तथा साथ ही एचसीएल, क्षेत्रीय कार्यालय, कोलकाता
है।

श्री बासुदेव डे

(ii) 315 जोधपुर पार्क, कोलकाता-700068 रियल

डीजीएम (इकाई प्रमुख), रूपनारायणपुर इकाई, हिन्दुस्तान केबल्स
लिमिटेड, कोलकाता

(iii) गोल्फ लिंक अपार्टमेंट्स, 50 चांदीताला लेन, कोलकाता-700068
स्थित चार फ्लैट्स (फ्लैट सं. जे.ओ., ई-I, ई-II, ई-III)

श्री एम. के. गग्ना
डीजीएम (एस एंड एम), हैदराबाद इकाई

(iv) मशीन टूल्स वर्क्स, पी.ओ. नरेन्द्रपुर-700103

श्री अनुराग अग्रवाल
एम (यूएच), नैनी इकाई, इलाहाबाद

हैदराबाद इकाई के लिए

एफओपी/नैनी इकाई के लिए

[सं. 1(12)/2009-2013]
एल. सी. राम,

MINISTRY OF HEAVY INDUSTRIES AND PUBLIC ENTERPRISES**(Department of Heavy Industry)**

New Delhi, the 13th November, 2014

S.O. 2882.—In Exercise of the powers conferred by section 3 of the Public Premises (Eviction of Unauthorised Occupations) Act 1971 (40 of 1971), the Central Government in continuation of this Department's Notification issued under No. 1(12)/2008-PE-II, dated 30.10.2009 & 12-11-2013 hereby appoints the officers mentioned in column 1 of the table below, being officer, equivalent to rank of gazetted officer of Government to be an Estate Officer for the purposes of the said Act, who shall exercise the powers conferred and perform the duties imposed on the Estates of his jurisdiction in respect of the public premises specified in column 2 of the said Table.

Name & Designation of the Officer	Categories of public premises and local limits of jurisdiction
Shri Basudev Dey DGM (Unit Head), Rupnarainpur Unit, Hindustan Cables Ltd. Kolkata in place of Shri Hari Shankar Chattopadhyay, Personnel & Township Officer. Staff No. 5566.	(i) Premises belonging to the undertaking of Hindustan Cables Ltd., Rupnarainpur Unit Township as will as premises of HCL, Regional Office, Kolkata. (ii) Premises at 315 Jodhpur Park, Kolkata-700068 (iii) 4 Flats (Flat Nos. J. O., E-I, E-2 and L-2) at Golf Link Apartments, 50 Chanditala Lane, Kolkata-700040. (iv) Machine Tool Works, P. O. Narendrapur-700103
Shri M. K. Garg DGM (S&M), Hyderabad Unit	For Hyderabad Unit
Shri Anurag Agarwal (UH). Naini Unit, Allahabad.	For FOP/Naini Unit.

[No. 1(12)/2008-PE-II]
L. C. RAM, Under Secy.

उपभोक्ता मामले, खाद्य और साविजनिक वितरण मंत्रालय

(उपभोक्ता मामले विभाग)

(भारतीय मानक ब्यूरो)

नई दिल्ली, 27 अक्टूबर, 2014

का. आ. 2883.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम, 1988 के विनियम 4 के उपविनियम 5 के अनुसरण में भारतीय मानक एन्टद्रारा अधिसूचित करता है कि जिन लाइसेंसों के विवरण नीचे अनुसूची में दिए गए हैं, वे स्वीकृत कर दिए गए हैं :

अनुसूची

मा. संख्या मीएम/एन	लाइसेंस की तिथि	लाइसेंसधारी का नाम एवं पता	भारतीय मानक का शीर्षक	भा. मा. भाग	अनु. वर्ष			
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1-2680765	03.04.2014	मैमर्स आरएस ग्रुप सर्विस, मकान नं. 49, एमडी सीनियर सैकंडरी स्कूल के पास, पट्टी किलहोर, वीजीओ झाड़सा, जिला गुडगांव-122001 (हरियाणा)	पैकेजबन्ड पेपर जल (पैकेजबन्ड प्राकृतिक मिनरल जल के अलावा)	(1) 43	-	-	-	2004

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
2.	L-2682365	15.04.2014	मैसर्स योकोहामा इण्डिया प्राइवेट लिमिटेड प्लॉट नं. 1, सैकट-4बी, एमआईआईडीसी, बहादुरगढ़-124507, जिला झज्जर, (हरियाणा)	स्वचल वाहन-सवारी कारों के लिए वातिल टायर-आड़ी और रेडियल प्लाई	15633	-	-	2005
3.	L-2682870	15.04.2014	मैसर्स अनुशा एप्लाइसेंस, खसरा नं. 1679, भाग बी, एमआईई के पीछे, बहादुरगढ़-124507, जिला झज्जर, (हरियाणा)	घरेलू और समान विद्युत साधित्रों की सुरक्षा -विवरणात्मक अपेक्षाएं - विद्युत इस्तरी	302	2	3	2007
4.	L-2682971	15.04.2014	मैसर्स अनुशा एप्लाइसेंस, खसरा नं. 1679, भाग बी, एमआईई के पीछे, बहादुरगढ़-124507, जिला झज्जर, (हरियाणा)	विद्युत इस्तरी	366	-	-	1998
5.	L-2683064	15.04.2014	मैसर्स अनुशा एप्लाइसेंस, खसरा नं. 1679, भाग बी, एमआईई के पीछे, बहादुरगढ़-124507, जिला झज्जर, (हरियाणा)	घरेलू और समान विद्युत साधित्रों की सुरक्षा - विशेष अपेक्षाएं - बिजली के निष्पत्ति वाटर मीटर	302	2	201	2008
6.	L-2683165	15.04.2014	मैसर्स अनुशा एप्लाइसेंस, खसरा नं. 1679, भाग बी, एमआईई के पीछे, बहादुरगढ़-124507, जिला झज्जर, (हरियाणा)	आवरणों पर खनिज भरने के लिए हीटिंग एलीमेंट	4159	-	-	2009
7.	L-2683266	16.04.2014	मैसर्स अनुशा एप्लाइसेंस, खसरा नं. 1679, भाग बी, एमआईई के पीछे, बहादुरगढ़-124507, जिला झज्जर, (हरियाणा)	पानी गरमाने के डबाऊ हीटर	368	-	-	1999
8.	L-2688074	25.04.2014	मैसर्स निसान इनफराटेक (इण्डिया) प्राइवेट लिमिटेड खसरा नं. 231, प्लॉट नं. 41/5/2/2, गरही, झांपला, जिला रोहतक	पैकेजबन्द पेय जल (पैकेजबन्द प्राकृतिक मिनरल जल के अलावा)	14543	-	-	2010
9.	L-2690162	30.04.2014	मैसर्स स्टैण्डर्ड फायर, झोलूशन, ई/54, संजय जातोनी, बैकल-23, जिला : फारीकाला-121005, (हरियाणा)	पोर्टेबल फायर एक्सटिंगशार परफोर्मेंस और कंसट्रक्शन	15683	-	-	2011

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
10.	L-2694675	02.05.2014	मैसर्स इम्पीरियल माल्ट्स लि. गांव घसौला, ओमेक्स प्लाजा के पीछे, सोहना रोड, डाकघर बादशाहपुर, जिला-गुड़गांव-122101, (हरियाणा)	माल्ट्युक्त दूध भोजन	1806	-	-	1975
11.	L-2694776	02.05.2014	मैसर्स इम्पीरियल माल्ट्स लि., गांव घसौला, ओमेक्स प्लाजा के पीछे, सोहना रोड, डाकघर बादशाहपुर, जिला-गुड़गांव-122101, (हरियाणा)	माल्ट्सार	2404	-	-	1993
12.	L-2692873	20.05.2014	मैसर्स श्री बालाजी प्रोडक्ट्स, प्लॉट नं. 7436, गली नं. 235, वार्ड नं. 6, 40 फुट रोड, संजय कालोनी, गोछी चौक के पास, जिला-फरीदाबाद, (हरियाणा)	पैकेजबन्द पेय जल (पैकेजबन्द प्राकृतिक मिनरल जल के अलावा)	14543	-	-	2004
13.	L-2696477	03.06.2014	मैसर्स ए-चन वाटर वर्क्स, प्लॉट नं. 7436, गली नं. 235, झिरका, (हरियाणा)	पैकेजबन्द पेय जल (पैकेजबन्द प्राकृतिक मिनरल जल के अलावा)	14543	-	-	2004
14.	L-2696578	13.06.2014	मैसर्स साजेन्ट्रा फ्लूइस ब्रेवरेजिस, प्लॉट नं. 232, ऊचा गांव, यादव कलोनी, नहसील बल्लभगढ़-121004, जिला-फरीदाबाद, (हरियाणा)	पैकेजबन्द पेय जल (पैकेजबन्द प्राकृतिक मिनरल जल के अलावा)	14543	-	-	2004
15.	L-2698686	13.06.2014	मैसर्स तृष्णा एक्वा प्रा. लि., ब्रेवरेजिस, आसाराम बापू आश्रम और नन्दल भवन के पास, गांव बांहर, जिला-रोहतक, (हरियाणा)	पैकेजबन्द पेय जल (पैकेजबन्द प्राकृतिक मिनरल जल के अलावा)	14543	-	-	2004
16.	L-2699584	18.06.2014	मैसर्स एचआईएल लि., सेक्टर-25, जिला-फरीदाबाद-121004, (हरियाणा)	तप्त और अतप्त पेय जल वितरण व्यवस्था के लिए क्लोरीनकृत पॉलीविनायल क्लोराइड (सीपीवीसी) पाइप	15778	-	-	2007

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
17.	L-2700139	19.06.2014	मैसर्स भूरजी प्लास्टेक सोलूशन प्रा. लि., प्लाट नं. 34, फेस-1, उद्योग विहार, गुडगांव-122016, (हरियाणा)	कन्डयूट्स फॉर इलैक्ट्रीकल इनस्टालेशन्स भाग 3 : रिजिड प्लेन कन्डयूट्स ऑफ इन्सुलेटिंग मैटिरियल्स	9537	03	-	1983
18.	L-2701343	26.06.2014	मैसर्स इण्डोटेक ऑटो पार्ट्स, प्लॉट नं. 208, सैक्टर-4, आईएमटी मानसेर, गुडगांव-122016, (हरियाणा)	कन्डयूट्स फॉर इलैक्ट्रीकल इनस्टालेशन्स भाग 3 : रिजिड प्लेन कन्डयूट्स ऑफ इन्सुलेटिंग मैटिरियल्स	9537	03	-	1983
19.	L-2701444	26.06.2014	मैसर्स हर्बल इन्टरप्राइसिस, बेवरेजिस, प्लॉट नं. 232, वार्ड नं. 6, फरीदाबाद, (हरियाणा)	पैकेजबन्द पेय जल (पैकेजबन्द प्राकृतिक मिनरल जल के अलावा)	14543	-	-	2004

[सं. सीएमडी-13: 11]

बिन्दु कुमार, अनुभाग अधिकारी

MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION

(Department of Consumer Affairs)

(BUREAU OF INDIAN STANDARDS)

New Delhi, the 27th October, 2014

S.O. 2883.—In pursuance of sub-regulation 5 of the regulation 4 of the Bureau of Indian Standards (**Certification**) Regulations, 1988, of the Bureau of Indian Standards, hereby notifies the grant of licences particulars of which are given in the following schedule :

SCHEDULE

Sl. No.	Licences No CM/L- Date	Name and address of the Licensee	Title of the Standard	IS No.	Part	Sec.	Year	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1	L-2680765 03.04.2014	M/s. R.S. Group Services, House No. 49, Near M.D. Senior Secondary School, Patti Kilhore, V.P.O. Jharsa, Distt. Gurgaon - 122001 (Haryana)	Packaged Drinking Water (Other Than Natural Mineral Water)	14543	-	-	2004	
2	L-2682365 15.04.2014	M/s. Yokohama India Private Limited, Plot No. 1, Sector-4B, HSIIDC, Bahadurgarh-124507, Distt. Jhajjar, (Haryana)	Automotive Vehicles - Pneumatic Tyres for Passenger Car Vehicles - Disgonal and Radial Ply	15633	-	-	2005	

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
3.	L-2682870	15.04.2014	M/s. Anusha Appliances, Khasra No. 1679, Part B, Behind M.I.E., Bahadurgarh - 124507, Distt. Jhajjar, Haryana	Safety of household, and similar electrical appliances : Part 2 Particular Requirements Section 3 Electric Iron	302	2	3	2007
4.	L-2682971	15.04.2014	M/s. Anusha Appliances, Khasra No. 1679, Part B, Behind M.I.E., Bahadurgarh - 124507, Distt. Jhajjar, Haryana	Electric Iron	366	-	-	1991
5.	L-2683064	15.04.2014	M/s. Anusha Appliances, Khasra No. 1679, Part B, Behind M.I.E., Bahadurgarh - 124507, Distt. Jhajjar, Haryana	Safety of household, and similar electrical appliances : Part 2 Particular Requirements Section 201 Electric Immersion Water Heater	302	2	201	2008
6.	L-2683165	15.04.2014	M/s. Anusha Appliances, Khasra No. 1679, Part B, Behind M.I.E., Bahadurgarh - 124507, Distt. Jhajjar, Haryana	Mineral Filled Sheathed Heating Elements	4159	-	-	2002
7.	L-2683266	16.04.2014	M/s. Anusha Appliances, Khasra No. 1679, Part B, Behind M.I.E., Bahadurgarh - 124507, Distt. Jhajjar, Haryana	Electric Immersion Water Heaters	368	-	-	1992
8.	L-2688074	25.04.2014	M/s. Nissan Infratech (India) Pvt. Ltd., Kh. No. 231, Plot No. 41/5/2/2, Garhi Sampla Industrial Area, Sampla, District - Rohtak-124501 Haryana	Packaged Drinking Water (Other than Natural Mineral Water)	14543	-	-	2004
9.	L-2690162	30.04.2014	M/s. Standard Fire Solution, E-54, Sanjay Colony, Sector-23, Distt. Faridabad-121005 Haryana	Portable Fire Extinguisher- Performance and Construction	15683	-	-	2006

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
10.	L-2694675	02.05.2014	M/s. Imperial Malts Ltd., Village Ghasola, Behind Omaxe Plaza, Sohna Road, Post Badshahpur, Distt. Gurgaon-122101, Haryana	Malted Milk Foods	1806	-	-	1975
11.	L-2694776	02.05.2014	M/s. Imperial Malts Ltd., Village Ghasola, Behind Omaxe Plaza, Sohna Road, Post Badshahpur, Distt. Gurgaon-122101, Haryana	Malt Extract	2404	-	-	1993
12.	L-2692873	20.05.2014	M/s. Shree Balaji Products, Plot No. 7436, Gali No. 235, Ward No. 6, 40 Ft. Road, Sanjay Colony, Near Gounchi Chowk, Faridabad Haryana	Packaged Drinking Water (Other than Natural Mineral Water)	14543	-	-	2004
13.	L-2696477	03.06.2014	M/s. A-One Water Works, Plot No. 7436, Gali No. 235, Ward No. 6, Jhirka	Packaged Drinking Water (Other than Natural Mineral Water)	14543	-	-	2004
14.	L-2696578	13.06.2014	M/s. Rajendra Food Beverages, Plot No. 232, Village Uncha Gaon, Yadav Colony, Tehsil Ballabgarh-121004, Distt. Faridabad, Haryana	Packaged Drinking Water (Other than Natural Mineral Water)	14543	-	-	2004
15.	L-2698686	13.06.2014	M/s. Trisha Aqua Pvt. Ltd., Near Asharam Bapu Ashram and Nandal Bhawan, Village Bohar, Distt. Rohtak, Haryana	Packaged Drinking Water (Other than Natural Mineral Water)	14543	-	-	2004
16.	L-2699584	18.06.2014	M/s. HIL Ltd., Sector-25, Distt. Faridabad-121005, Haryana	CPVC Pipes for Potable Water Supply	15778	-	-	2007
17.	L-2700139	19.06.2014	M/s. Bhurji Plastek Solution Pvt. Ltd., Plot No. 34, Phase 1, Udyog Vihar, Gurgaon-122016 Haryana	Conduits for Electrical Installations Part 3 Rigid Plain Conduits of Insulating Materials	9537	03	-	1983

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
18.	L-2701343	26.06.2014	M/s. Indotech Enterprises, Plot No. 208, Sector-4, IMT Manesar, Distt. Gurgaon, Haryana	Conduits for Electrical Installations Part 3 Rigid Plain Conduits of Insulating Materials	9537	03	-	1983
19.	L-2701444	26.06.2014	M/s. Herbal Enterprises, Beverages, Ward No. 6, Faridabad, Haryana	Packaged Drinking Water (Other Than Natural Mineral Water)	14543	-	-	2004

[No. CMD/13 : 11]

BINDU KUMAR, Section Officer

नई दिल्ली, 27 अक्टूबर, 2014

का. आ. 2884.—भारतीय मानक व्यूरो (प्रमाणन) विनियम, 1988 के विनियम (5) के उपविनियम (6) के अनुसरण में भारतीय मानक व्यूरो एतद्वारा अधिसूचित करता है कि निम्न विवरण वाले लाइसेंसों को उनके आगे दर्शायी गई तारीख से रद्द/स्थगित कर दिया गया हैं :—

अनुसूची

क्रम संख्या	लाइसेंस संख्या सीएम/एल	लाइसेंसधारी का नाम व पता	लाइसेंस के अन्तर्गत वस्तु/प्रक्रम सम्बद्ध भारतीय मानक का शीर्षक	रद्द करने की तिथि
01	एल-2626759	मै. वी. के. फैब्रिकेटर्स, 16/5, मथुरा रोड, गुडियर टायर के पास, फरीदाबाद-121002, हरियाणा	स्टील दरवाजों के फ्रेम आईएस 4351 : 2003	04.04.2014

[सं. सीएमडी-13 : 13]

बिन्दु कुमार, अनुभाग अधिकारी

New Delhi; the 27th October, 2014

S.O. 2884.—In pursuance of sub-regulation (6) of regulation of the Bureau of Indian Standards (Certificate) Regulations, 1988, the Bureau of Indian Standards, hereby notifies that the licences particulars of which are given below have been cancelled/suspended with effect from the date indicated against each :—

SCHEDULE

Sl. No.	Licences No.	Name & Address of the Party	Article/Process with relevant Indian Standards covered by the licence cancelled/suspension	Date of Cancellation
01	L-2626759	M/s. V. K. Fabricators, 16/5, Mathura Road, Near Goodyear Tyre, Faridabad-121002 Haryana	Steel Door Frames IS 4351 : 2003	04.04.2014

[No. CMD/13 : 13]

BINDU KUMAR, Section Officer

कोयला मंत्रालय

आदेश

नई दिल्ली, 14 नवम्बर, 2014

का. आ. 2885.—कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) (जिसे इसके पश्चात् यह अधिनियम कहा गया है) की धारा 9 की उप-धारा (1) के अधीन जारी भारत सरकार के राजपत्र, असाधारण, भाग II, खंड 3, उपलब्ध (II), तारीख 17 फरवरी, 2014 में प्रकाशित भारत सरकार के कोयला मंत्रालय की अधिसूचना का.आ. संख्यांक 414(अ), तारीख 14 फरवरी, 2014 के प्रकाशन पर, उक्त अधिसूचना से संलग्न अनुसूची में वर्णित 374.00 हेक्टेयर (लगभग) या 924.15 एकड़ (लगभग) माप वाली भूमि में (यह इसमें इसके पश्चात् उक्त भूमि कहा गया है) या उस पर के सभी अधिकार उक्त अधिनियम की धारा 10 की उपधारा (1) के अधीन, यह विस्तृतांगमां से मुक्त होकर, आत्मतंत्रिक रूप में निहित हो गए थे :

और केन्द्रीय सरकार का यह समाधान हो गया है, कि वेस्टर्न कोलफील्ड्स लिमिटेड, नागपुर (महाराष्ट्र) (जिसे इसके पश्चात् सरकारी कंपनी कहा गया है), ऐसे निबंधनों और शर्तों का जिन्हें केन्द्रीय सरकार इस निमित्त अधिरोपित करना उचित समझे, अनुपालन के लिए रजामंद है ;

अतः, अब, केन्द्रीय सरकार, कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 की धारा 11 की उप-धारा (1) द्वारा यह शक्तियों का प्रयोग करते हुए, यह निदेश देती है, कि 374.00 हेक्टेयर (लगभग) या 924.15 एकड़ (लगभग) उक्त भूमि में या उस पर के सभी अधिकार केन्द्रीय सरकार में इस प्रकार निहित बने रहने के बाजाए, तारीख 17 जुलाई, 2014 से निम्नलिखित निबंधनों और शर्तों के अधीन हुए, सरकारी कंपनी में निहित हो जाएंगे, अर्थात् :-

- (1) सरकारी कंपनी, उक्त अधिनियम के उपबंधों के अधीन यथा अवधारित प्रतिकर, व्याज, नुकसानियों और वैसी ही मदों की किए गए सभी संदायों की केन्द्रीय सरकार को प्रतिपूर्ति करेंगे ;
- (2) शर्त (1) के अधीन, सरकारी कंपनी द्वारा केन्द्रीय सरकार को संदेय रकमों का अवधारण करने के प्रयोजनों के लिए उक्त अधिनियम की धारा 14 के अधीन एक अधिकरण का गठन किया जाएगा तथा ऐसे किसी अधिकरण और उक्त अधिकरण की साथ लिए नियुक्त व्यक्तियों के संबंध में उपगत सभी व्यय, सरकारी कंपनी द्वारा वहन किए जाएंगे और इस प्रकार निहित उक्त भूमि में या उस पर के अधिकारों के लिए या उनके संबंध में सभी विधिक कार्यवाहियों की बाबत उपगत, सभी व्यय भी, सरकारी कंपनी द्वारा वहन किए जाएंगे ;
- (3) सरकारी कंपनी, केन्द्रीय सरकार या उसके पदधारियों की, ऐसे किसी अन्य व्यय के संबंध में क्षतिपूर्ति करेंगी जो इस प्रकार उक्त भूमि में या उस पर के अधिकारों के बारे में, केन्द्रीय सरकार या उसके पदधारियों द्वारा या उनके विरुद्ध किन्हीं कार्यवाहियों के संबंध में आवश्यक हो ;
- (4) सरकारी कंपनी को केन्द्रीय सरकार के पूर्व अनुमोदन के बिना, उक्त भूमि और उक्त भूमि में या उस पर के इस प्रकार अधिकारों को किसी अन्य व्यक्ति को अंतरित करने की शक्ति नहीं होगी ; और
- (5) सरकारी कंपनी, ऐसे निदेशों और शर्तों का पालन करेंगी जो केन्द्रीय सरकार द्वारा, जब कभी आवश्यक हो, उक्त भूमि के क्षेत्रों के लिए दिए जाएं या अधिरोपित किए जाएं ।

[फा. सं. 43015/24/2009-पीआरआरएस
दोमिनिक हुंगहुंग, अप्रूप

**MINISTRY OF COAL
ORDER**

New Delhi, the 14th November, 2014

S.O. 2885.—Whereas on the publication of the notification of the Government of India in the Ministry of Coal bearing Areas number S.O. 414(E), dated the 14th February, 2014 in the Gazette of India, Part II, Section 3, Sub-section (ii), Extraordinary Column dated the 17th February, 2014 issued under sub-section (1) of Section 9 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957) (hereinafter referred to as the said Act), the land measuring 374.00 hectares (approximately 924.15 acres) as all rights in or over the said land described in the Schedule appended to the said notification (hereinafter referred to as the said land) are vested absolutely in the Central Government free from all encumbrances under sub-section (1) of Section 10 of the said Act.

And whereas, the Central Government is satisfied that the Western Coalfields Limited, Nagpur (Maharashtra) (hereinafter referred to as the Government Company) is willing to comply with such terms and conditions as the Central Government thinks fit to impose in this behalf.

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 11 of the Coal Bearing Areas (Acquisition and Development) Act, 1957, the Central Government hereby directs that the all rights of 374.00 hectares (approximately) or 924.15 acres (approximately) in or over the said land so vested shall with effect from 17th February, 2014 instead of continuing to so vest in the Central Government, vest in the Government Company, subject to the following terms and conditions, namely :—

- (1) the Government Company shall reimburse to the Central Government all payments made in respect of compensation, interest, damages and the like, as determined under the provisions of the said Act;
- (2) a Tribunal shall be constituted under Section 14 of the said Act, for the purpose of determining the amounts payable to the Central Government by the Government Company under conditions (1) and all expenditure incurred in connection with any such Tribunal and persons appointed to assist the said Tribunal shall be borne by the Government Company and similarly, all expenditure incurred in respect of all legal proceedings for or in connection with the rights, in or over the said land, so vesting, shall also be borne by the said Government Company ;
- (3) the Government Company shall indemnify the Central Government or its officials against any other expenditure that may be necessary in connection with any proceedings by or against the Central Government or its officials regarding the rights in or over the said land so vested ;
- (4) the Government Company shall have no power to transfer the said land and the rights in or over the said land so vested to any other persons without the prior approval of the Central Government; and
- (5) the Government Company shall abide by such directions and conditions as may be given or imposed by the Central Government for particular areas of the said land as and when necessary.

[F. No. 43015/24/2009-PRIW-I]
DOMINIC DUNGDUNG, Under Secy.

नई दिल्ली, 17 नवम्बर, 2014

का. आ. 2886.—केन्द्रीय सरकार को यह प्रतीत होता है कि, इससे उपाबद्ध अनुसूची में उल्लिखित परिक्षेत्र की भूमि में कोयला अधिकार प्राप्त किए जाने की संभावना है;

और रेखांक संख्या एसईसीएल/बीएसपी/जीएम (पीएलजी)/भूमि/456, तारीख 7 अगस्त, 2014 का जिसमें उक्त अनुसूची में वर्णित भूमि के ब्यौरे अन्तर्विष्ट है, निरीक्षण कलक्टर, जिला अनुपपुर (मध्य प्रदेश) तथा कलक्टर, जिला कोरिया (छत्तीसगढ़) के कार्यालय में या कोयला नियंत्रक, 1, काऊसिल हाऊस स्ट्रीट, कोलकाता – 700001 के कार्यालय में या साऊथ इस्टर्न कोलफील्ड्स लिमिटेड (राजस्व अनुभाग), सीपत रोड, बिलासपुर – 495006 (छत्तीसगढ़) के कार्यालय में किया जा सकता है;

अतः अब, केन्द्रीय सरकार, कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 4 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, पूर्वोक्त अनुसूची में वर्णित भूमि में कोयले का पूर्वेक्षण करने के अपने आशय की सूचना देती है।

उक्त अनुसूची में वर्णित भूमि में हितबद्ध कोई व्यक्ति –

- (i) उक्त अधिनियम की धारा 4 की उप-धारा (3) के अधीन की गई कार्रवाई से हुई क्षति या संभावित क्षति अधिनियम की धारा 6 की उप-धारा (1) के अधीन किसी नुकसानी के लिए प्रतिकर का दावा कर सकेगा; या

(ii) उक्त अधिनियम की धारा 13 की उप-धारा (1) के अधीन समाप्त हो गई पूर्वेक्षण अनुज्ञापियों के संबंध में या उक्त अधिनियम की धारा 13 की उप-धारा (4) के अधीन समाप्त हो गए खनन पट्टे के लिए प्रतिकर का दावा कर सकेगा और उक्त अधिनियम की धारा 13 की उप-धारा (1) के खंड (i) से खंड (iv) में विनिर्दिष्ट मर्दों के संबंध में उपगत व्यय को उपदर्शित करने के लिए उक्त भूमि से संबंधित सभी मानचित्रों, चाटी और अन्य दस्तावेजों को सुपुर्द करेगा।

इस अधिसूचना के राजपत्र में प्रकाशन की तारीख से नब्बे दिन के भीतर भारसाधक अधिकारी या विभागाध्यक्ष (राजस्व), साऊथ ईस्टर्न लैनफोल्डस लिमिटेड, सीपत रोड, बिलासपुर - 495006 (छत्तीसगढ़) को सौंपेगा।

अनुसूची

राजनगर, डोला, उत्तरी झाङडाखांड ब्लाक, हसदेव क्षेत्र

जिला - अनुपपुर, मध्य प्रदेश और जिला कोरिया, छत्तीसगढ़

(रेखांक संख्या एसईसीएल/बीएसपी/जीएम (पीएलजी)/भूमि/456, तारीख 7 अगस्त, 2014)

सभी अधिकार :

क्रम सं	ग्राम का नाम	साधारण नम्बर	पटवारी हस्ताक्षर नम्बर	तहसील	जिला	क्षेत्र हेक्टर में (लगभग)	टिप्पणियां
1.	डोला	394	49	कोतमा	अनुपपुर	112.076	भाग
2.	नक्तीटोला	516	48	कोतमा	अनुपपुर	0.976	भाग
3.	खोंगापानी	34	14	मनेन्द्रगढ़	कोरिया	190.228	भाग

कुल : 303.280 हेक्टर (लगभग) या 749.91 एकड़ (लगभग)

सीमा वर्णन :

क - ख रेखा, बिन्दु 'क' से आरंभ होती है और ग्राम डोला में पश्चिमी भाग से होती हुई ग्राम डोला, नक्तीटोला के सम्मिलित सीमा में बिन्दु 'ख' पर मिलती है।

ख - ग रेखा, बिन्दु 'ख' से आरंभ होती है और ग्राम नक्तीटोला के दक्षिणी भाग, ग्राम डोला के उत्तरी भाग, ग्राम खोंगापानी के मध्य भाग से होती हुई बिन्दु 'ग' पर मिलती है।

ग - घ रेखा ग्राम खोंगापानी में बिन्दु 'ग' से आरंभ होती है और ग्राम खोंगापानी के मध्य भाग से होती हुई ग्राम खोंगापानी के दक्षिणी सीमा में बिन्दु 'घ' पर मिलती है।

घ - क रेखा, बिन्दु 'घ' से आरंभ होती है और ग्राम खोंगापानी के दक्षिणी भाग, ग्राम डोला के उत्तरी भाग से होती हुई आरंभक बिन्दु 'क' पर मिलती है।

[फा. सं. 43015/13/2014-पीआरआईडब्ल्यू-1]
दोपिनिक दुंगडुंग, अकार सीमा

New Delhi, the 17th November, 2014

S.O. 2886.—Whereas, it appears to the Central Government that Coal is likely to be obtained from the lands in the locality mentioned in the Schedule annexed hereto;

And whereas, the plan bearing number SECL/BSP/GM (PLG)/LAND/456, dated the 7th August, 2014 containing details of the area covered by this notification may be inspected at the office of the Collector, District Araria (Madhya Pradesh) and District Kora (Chhattisgarh) or at the office of the Coal Controller, 1, Council House Street,

Kolkata-700001 or at the office of the South Eastern Coalfields Limited (Revenue Section), Seepat Road, Bilaspur-495006 Chhattisgarh);

Now, therefore, in the exercise of the powers conferred by sub-section (1) of section 4 of the Coal Bearing Areas Acquisition and Development) Act, 1957 (20 of 1957), (hereinafter referred to as the said Act), the Central Government hereby gives notice of its intention to prospect for coal in the land described in the aforesaid Schedule;

Any person interested in the land described in the afore mentioned Schedule may –

- (i) claim compensation under sub-section (1) of Section 6 of the said Act for any damage caused or likely to be caused by any action taken under sub-section (3) of Section 4 thereof; or
- (ii) claim compensation under sub-section (1) of Section 13 of the said Act, in respect of prospecting license ceasing to have effect or under sub-section (4) of Section 13 of the said Act for mining lease ceasing to have effect, and deliver all maps, charts and other documents relating to the aforesaid land to show the expenditure incurred in respect of items specified in clauses (i) to (iv) of sub-section (1) of Section 13 of the said Act,
- the Officer-in-Charge or Head of the Department (Revenue), South Eastern Coalfields Limited, Seepat Road, Bilaspur-495006 (Chhattisgarh) within ninety days from the date of publication of this notification in the Official Gazette.

SCHEDULE

Rajnagar, Dola, North Jhagrakhand Block, Hasdeo Area District-Anuppur, Madhya Pradesh
and District Korea, Chhattisgarh

(Plan bearing number SECL/BSP/GM (PLG)LAND/456, dated the 7th August, 2014)

All Rights :

Sl. No.	Name of Village	General number	Patwari halka number	Tehsil	District	Area in hectares (approxi- mately)	Remarks
1.	Dola	394	49	Kotma	Anuppur	112.076	Part
2.	Naktitola	516	48	Kotma	Anuppur	0.976	Part
3.	Kongapani	34	14	Manendragarh	Korea	190.228	Part

Total: 303.280 hectares (approximately) or 749.41 acres (approximately)

Boundary Description :

- A-B Line starts from point 'A' in village Dola and passes through western part of village Dola and meets at point 'B' on the common boundary of villages Dola, Naktitola.
- B-C Line starts from point 'B' in village Naktitola and passes through Southern part of village Naktotola, northern part of village Dola and middle part of village Kongapani and meets at point 'C'.
- C-D Line starts from point 'C' in village Kongapani and passes through middle part of village Kongapani and meets at point 'D' on the southern boundary of village Kongapani.
- D-A Line starts from point 'D' in village Kongapani passes through southern part of village Kongapani, northern part of village Dola and meets at starting point 'A'.

श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 7 नवम्बर, 2014

का.आ. 2887.—राष्ट्रपति, श्री शुभेन्द्र कुमार को 20.10.

2014 (पूर्वाहन) से केन्द्रीय सरकार औद्योगिक न्यायाधीकरण-सह-श्रम न्यायालय, कानपुर, के पीठासीन अधिकारी के रूप में 25.08.2018 तक अथवा अगले आदेशों तक, जो भी पहले हो, नियुक्त करते हैं।

[सं. ए-11016/02/2013-सीएलएस-II]

एस. के. सिंह, अवर सचिव

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 7th November, 2014

S.O. 2887.—The President is pleased to appoint

Shri Shubhendra Kumar as Presiding Officer of the Central Government Industrial Tribunal-cum-Labour Court, Kanpur w.e.f. 20.10.2014(F.N.) for a period up to 25.08.2018 or until further orders, whichever is earlier.

[No. A-11016/02/2013-CLS-II]

S. K. SINGH, Under Secy.

नई दिल्ली, 21 अक्टूबर, 2014

का.आ. 2888.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डब्ल्यू. सी. एल., के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 60/2004) को प्रकाशित करती है जो केन्द्रीय सरकार को 21/10/2014 को प्राप्त हुआ था।

[सं. एल-22012/46/1998-आईआर (सीएम-II)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 21st October, 2014

S.O. 2888.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 60/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the WCL and their workman, which was received by the Central Government on 21/10/2014.

[No. L-22012/46/1998-IR(CM-II)]

B. M. PATNAIK, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR

NO. CGIT/LC/R/60/2004

PRESIDING OFFICER: SHRI R. B. PATLE

Shri Rajesh Prasad,
C/o Smt. Kamla Wadia, Ex.MLA,
Madhuban Colony,
Chhindwara

Workman

Versus

Chairman-cum-MD,
Coal Estate,
Nagpur

General Manager, WCL,
Kanhan Area,
Dungaria,
Chhindwara

Management

AWARD

Passed on this 9th day of September, 2014

1. As per letter dated 7-5-04 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-22012/46/98-IR(C-II). The dispute under reference relates to:

“Whether the action of the management of WCL, Kanhan area, PO Dungaria, distt. Chhindwara (MP) in terminating the services of Shri Rajesh Prasad S/o Ramanand and 378 others Cat-I Mazdoors of Tandsi Project w.e.f. October 93 is legal and justified? If not, to what relief the workmen are entitled to?”

2. After receiving reference, notices were issued to the parties. 1st party filed statement of claim at page 3/1 to 3/11. Case of 1st party workman is that Shri Rajesh Prasad and 378 other workmen shown in the list enclosed with order of reference claims to be resident of villages Damua, Sukri, Tamia, Jhatachhappar, Lalpathar, Pendur, Neemkheda, Bhata, Lakadbadi, Tehsil Junnardeo, Distt. Chhindwara. That most of the workers belong to SC/ST they were appointed as Mazdoor Category I as per NCWA-III. They were working with 2nd party from October 88 to October 1993 continuously for a period of 5 years. Their services were terminated without assigning any reasons for violation of provisions of I.D. Act. Workmen are illiterate and ignorant of the prevailing laws. That they raised dispute before ALC, Chhindwara in 1995. The conciliation proceedings were belated and failure report was submitted on 12-1-98. Government declined to refer dispute for adjudication as per letter dated 27-1-99. Filing Writ Petition 5003 of 99, High Court of MP at Jabalpur order of refusal, reference was challenged. As per order dated 27-1-99, Government was directed to make reference within 3 months. That service conditions of the employees are governed as per recommendations of Central Wage Board accepted by Ministry of Coal, Govt. of India and NCWA-I to VI.

3. Workmen further submits that they were initially appointed as Category I mazdoor in Tandsi Project of WCL for job of extracting coal. Their services are also covered by standing orders, provisions of Mines Act and Regulations and circulars. After their initial appointment in October 1988, they were deployed in various jobs of Category I mazdoor from extracting coal from mine in Tandsi Project. As per provisions under Mines Act, employer is required to maintain statutory records from the Attendance Register. Management was maintaining such record about their attendance. They were working 3 shifts Ist shift from 8 AM to 4 PM, IIInd from 4PM to 12 AM, and IIIrd from 12hours night till 8 AM. Their attendance was maintained by management. Management had control and supervision over all the workers. They were continuously working till October 1993. He completed 240 days continuous service during each of the year. They were treated as monthly rated workers. Wages were paid to them as per NCWA. Termination of their service amounts to retrenchment under Section 2(oo) of I.D. Act. Their services were dispensed with by management by oral order without paying any benefits. Termination of their services was in violation of Section 25-F of I.D. Act. That as per standing orders, all the workers attained status of permanent/ regular employees. Their services were terminated without assigning reasons is void. It is also submitted that they were not served with showcause notice. No chargesheet was issued to them. DE was not initiated against them. They were not paid retrenchment compensation. Reasons for termination was not informed. There were no circular from Govt. of India.

It is submitted that Tandsi Project was profit making project. Termination of services of workman in violation of provisions of I.D. Act is illegal. As per provisions of standing orders employees continuously working for more than 180 days is required to be classified as regular employee. If the workers worked more than 240 days in consecutive months, retrenchment of such workers without compensation is void. That principles of last come first go was not applied while terminating their services. They were retained by IIInd party violating provisions of section 25-G, H of I.D. Act. It is reiterated that all those workers have completed 240 days continuous service. Under Section 25 B of I.D. Act, worker completing 190/200 days continuous service of 95/110 days within six months are considered in continuous service. For termination of their service for violation of provisions of I.D. Act, workman prays for setting aside order of their termination and reinstatement with back wages.

IIInd party filed Written Statement denying claim those workmen. It is submitted that reference is illegal & incorrect. That list of workers were sent on 6-9-06. Is not case of termination of the claimants. They were never employed by WCL. There was no question of their

termination. Without considering the facts claimed before Conciliation Officer, reference has been made. That appropriate Government had refused to entertain representations of management. Writ petition No. 18700/2006 was filed challenging order of reference. Application for stay was rejected. Therefore IIInd party filed Written Statement in the matter. That subsequently names of claimants were supplied on 6-9-06 whereas the reference order was passed on 7-5-04. The claimants/workmen have not revealed their particulars about identification. In absence of such particulars, it is not possible to ascertain identification of each of the workmen. After Govt.'s order of refusal to make reference, claimant Rajesh Prasad filed Writ petition No. 5003 of 99 at High Court, Jabalpur. It is submitted that without application of mind, the dispute has been referred. That as per letter dated 24-7-98, dispute w.r.t Dadulal and 350 others was referred for adjudication to this Tribunal bearing R/83/98. Reference was also made in the matter of Amar Kumar and others bearing No. R/197/98. That names of the workmen included in present reference were also appearing in above references. That the order of reference speaks Rajesh and others were working as General Mazdoor Category-I at Kanhan Area. Their services were terminated. The above conclusion of the Govt. is incorrect. The reference was made arbitrarily. It is reiterated that in R/83/98, 197/98, there were common names of the workmen. The documents could not be available with the management after period of 3 years.

6. IIInd party further submits that appointment in CIL are governed by statutory rules, regulations and procedure prescribed. Only after compliance of such procedure, regulation, appointments can be made Coal India Ltd and its subsidiary company. General manager is empowered to make appointments following procedure for appointment, names are required to be called through Employment Exchange. Workmen in present case were not sponsored by Employment Exchange. That as per Mines Act, Rules and Regulations, management is required to maintain statutory records, Form-B, C,D in r/o each of the employees. Token number for identification is to be given. PF Scheme Contributions are deducted from wages which are deposited in CMPF. The workmen has not produced any document in that regard.

7. IIInd party submits that tender notice 1/93-94 was issued on 2-4-93 for execution of Inclines 3,4 Tandsi Project, its details are given in Para-21.. Said tender was for Rs. 10,18,43,000/- . The contractor M/S Shanti Kumar Sancheti had executed agreement for execution of work. Engagement of contract labours are not prohibited in driving drift rather it was permitted by Notification dated 21-6-88 issued by Govt. of India. It is submitted that contractor M/s. Shanti Kumar Sancheti was engaged for work of Incline No. 3, 4. The contract labours not having

conversant of provisions of Mines Act, they were guided by Mining owned by Sirdar etc. All material contentions of workman that they were engaged as Mazdoor Category I from October 88 to October 93 have been denied. IIInd party admitted that management maintained record like Form B Register, Attendance Register required under Mines Act. Workmen were never employed by IIInd party therefore their names were not appearing in Form B register, statutory record. It is denied that the services of workmen were terminated without notice, chargesheet or conducting Departmental Enquiry. It is reiterated that workmen were not engaged by IIInd party. There was no question of termination of their services. 1st party workmen have not disclosed details of persons retained in service after their termination. On all such grounds, IIInd party prays for rejection of claim.

8. 1st party filed rejoinder reiterating most of its contentions in statement of claim. That their statement of claim was filed on 3-3-05 whereas Written Statement was filed by IIInd party on 14-11-08 after long delay. Workmen have reiterated that they were employed as Category I mazdoor in underground mine of Tandsi Project. Under Notification dated 21-6-88, Govt. of India prohibited employment of contract labour. Workmen were regular employees. They were directly appointed by IIInd party. There was no contractor as contented by IIInd party for job of over burden removal, earth cutting, stone drifting and miscellaneous works. That they were working all 365 days except on holidays. The lists of workers was submitted by Govt. on 6-9-06. All adverse contentions of IIInd party in its written Statement have been denied. It is denied in Reference 83/98, 197/98, common names of workers were given. That provisions of limitations are not applicable. Management of IIInd party is responsible for delay in reference for dispute. That their appointment were made directly made in accordance of rules. Management admitted statutory register are maintained by it. Management adopted unfair labour practice to deny their services. That their services were terminated on 30-10-93 in violation of provisions of I.D. Act. That granting tender to contractor M/S Shanti Kumar Sancheti doesnot establish those workers were working as contract labours.

9. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

(i) Whether the action of the management of WCL, Kanhan area, PO Dungaria, Distt. Chhindwara (MP) in terminating the services of Shri Rajesh Prasad S/o Ramanand and 378 others Cat-I Mazdoors of

Partly in Negative w.r.t. workmen
Suresh S/o Ayodhya and Shri Shiv Prasad, S/o Chhotelal.

Tandsi Project w.e.f.
October 93 is legal and justified?

(ii) If not, what relief the workman is entitled to?" As per final

REASONS

10. Before dealing with dispute under reference on it is appropriate to deal with the argument advanced tenability of reference, the order of reference by Govt. is not challenged therefore contentions of IIInd party about tenability of reference cannot be considered. Order of reference is binding on this Tribunal. With regard to delay in making reference, there is no contention between parties from pleadings that after FOC was issued in 1999, Writ Petition 5003/99 was filed, said Writ Petition was decided on 16-3-04 and as per directions of the High Court, the dispute is referred for adjudication by this Tribunal therefore the workers cannot be blamed for delay in making reference.

11. The parties are in dispute about legal termination of services of Rajesh Prasad and 378 workers. Workmen claims to be directly appointed by management whereas the IIInd party in its Written Statement claims direct engagement of the workmen rather it is said that work of Incline No.3,4 of Tandsi Project was assigned to the contractor calling tenders. The documents M-1 is copy of order of refusal to make reference by Government. Exhibit M-2 is tender notice dated 23-3-96. Exhibit M-3 is tender notice of the same date for the work of drivage of Incline No.3,4. Exhibit M-4 is work order dated 23-3-96 for Rs.10,18,43,000/- in favour of M/S Shanti Kumar Sancheti, contractor. Exhibit M-5 is copy of work order with above said contractor, Exhibit M-7 is certificate dated 23-3-96. Exhibit M-8 is license issued to above said contractor bearing No. 6297 for engagement of 95 contract labours for execution of work in Tandsi Project of WCL. Those workmen claim that they were working with IIInd party from October 88 to October 93 whereas those documents pertains to subsequent period. Letter of intent Exhibit M-3 is dated 5-11-93, work order dated 8-2-94. Thus those documents do not cover the disputed period of working by 1st party workers.

12. Shri Suresh S/o Ayodhya and Shri Shiv Prasad submitted affidavit of their evidence contending that they were directly engage by IIInd party from 10-3-88 to 30-10-93 respectively. That all the 379 workers were working with IIInd party. Their work was supervised by the management. Their services were terminated without notice. Suresh S/o Ayodhya says he and other workers were doing work of excavation, they were also involved in underground removing the coal. There was no record of their attendance was maintained in the register. Shiv Prasad in his affidavit says he was working with IIInd party from 10-3-88 to 30-10-93.

Category I. Basket, shoes were supplied by the management. Their wages were paid by the management.

In his cross-examination, workman Suresh says he is not member of Union. He has not approached any Union. Any of the workers are not members of Union. Dispute is raised in their individual capacity. He further says that he was authorized by workman for prosecuting the dispute. His signatures were made in register in 1993, its zerox copy was produced before ALC, Chhindwara. That workman covered under R/83/98, 197/98 are not party to the present reference. He was unable to explain what was the difficulty in not showing the details about identification of all workmen like age, residence etc. That 150 workmen were appointed with him. However the vacancies were not displayed on notice board. His name was not sponsored through Employment Exchange. That his physical test was carried on 10-3-88. The test of others was taken on 11-3-88. In the beginning Mr. Saxena Manager of Tandsi Project was conducting test. Appointment order in writing was not given to him. That about 500 persons were working in the project. Out of them 379 were terminated. That he was told by Shri Kanchand about abolition of contract system in Hind party. He reiterated that he and other persons were working from 1988 to October 1993. On termination, any letter of warning was not given to him. Their services was terminated for the reasons that mine has been closed. They had approached Manager Subbarao who told him that he was helpless because of order of CMD. Their wages was paid by clerk, work was carried in 3 shifts, 150 to 200 workers were working in each shift. Mr. Khan was Under Manager & Saxena and Subbarao were Manager. He was unable to tell number of days worked by him. He has not kept any document with him. Copy of attendance register is produced but 1st party did not make effort for proving those copies by adducing necessary evidence. That original of attendance register is with management. That Attendance Register for 1988 to 1991 is maintained by clerk Nagendra. Workmen handed over copies to him, the witness could not explain. He was also unable to tell whether those copies were bearing stamp of authority. It is surprise to see that copies of Attendance Register produced by workmen are not proved; required evidence is not adduced on the point. Above witness in his further cross-examination says all workers have signed in the application submitted before ALC. He was unable to tell about provisions of standing orders referred in affidavit. That they were doing work cutting stones, making arch, concrete, pulling cables, mould. That they were granted leave by the Manager. He was unable to tell details of leave taken during 1988 to 1992. They were paid overtime wages, entries were taken in register, any documents in that regard is not produced. Some of the employees were allotted quarter number. He was unable to tell quarter number. That they were working for 16 hours. Clerk Nagendra was making overtime

payment. In entire cross-examination of Shri Suresh, there is no suggestion that he was working as contractor's labour in 1994. His cross-examination is devoted about training given to the workmen. The certificates were issued to each of the workmen. Those documents are also not on record. In para-58 of his cross-examination suggestion is denied by the witness that he was working as contractor's labour. As far as evidence in cross-examination of Shiv Prasad is devoted on point that the wages were paid to him on 10th day of the month. The wages were paid on monthly basis. If he was not working, the wages were reduced. That he was working with Hind party from 1-1-1988 but he had not submitted application. The post was not advertised. His name was not sponsored through Employment Exchange. That he worked in January 1994. He was doing the work of digging road for underground mines. 115 labours were doing work of loading coal. He was unable to tell names of other labours. That work of digging road was carried by the contractor. That Manager Mr. Khan was giving instruction to Mining sirdar and he was giving directions for the work. His name was recorded in Form B after few months. He was unable to tell whether Form B of other workers was prepared. That he had handed over photocopy of documents. He has furnished name of his father and permanent address for filling Form B. The Provident Fund is deducted in coal mines. He claims ignorance whether he was member of said scheme. That pay register was remaining in custody of Manager Saxena and not with the clerk. The lamp clerk was issuing lamp after obtaining signatures in the register. He claims ignorance whether all 379 labours had signed on application submitted to ALC. That in 1988, his age was 18 years. There was no person by name Tiwari working as supervisor. He denies suggestion that he was working as contract labour. He does not know contractor M/S Shanti Kumar Sancheti and denies that said contractor was allotted tender work Rs. 10,18,43,000/- He denies that he and other workers were working with contractor. The evidence in cross-examination of both the witnesses is clear that they do not work in the mine rather the suggestion is that they were working as contract labour.

14. 1st party workman filed affidavit of Shri Kanchand supporting their claim that all those workmen were working with Hind party from March 88. He was maintaining their attendance. Zerox copy of attendance register is produced. Those workmen were working as per directions issued by the officer authorized by the management. Their leave applications were sanctioned by Manager Saxena and Subbarao. In his cross-examination, Kanchand says that he was appointed as General Mazdoor in mine in 1975. His name was not sponsored from Employment Exchange. He was directly appointed. Appointment letter in writing was given to him. He was unable to tell his Token No. that from 1975 to 1987, he was working in Mohan colliery. He admits

that Mohan colliery and Tandsi Project are different. Both mines are under General Manager, Kanhan Area. That Form B register of the employees are maintained. Service book was separately prepared. He was working as Attendance Clerk. The witness has undertaken to produce copy of order but no such order is produced by the witness. In his further cross-examination, Khemchand says about 400 labours were working in Tandsi Project. Form B register of all workers were maintained. Those workers were working in 3 shifts. That he had not handed over zerox copy of attendance register. Rajendra, Bhagwat, Gulabrao were working. Nagendra singh died and other two are alive. He claims ignorance whether names of workmen were called from Employment Exchange. Those workers were interviewed by General Manager Subbarao. Vacancies were not advertised. He was unable to tell his Token number. In 1986, work of Tandsi Project started. Underground work was carried. Work of incline was not carried by the contractor. In his further cross-examination, witness says he was not concerned with granting leave to the workers or payment of their wages. He has not stated about it in his affidavit. He was not concerned with training of workers. Workers who were given VTC training, certificate were issued to them. That he knows 2-4 workers but he was not knowing permanent address of any of the labours. The witness has admitted that chargesheet was issued to him and he was dismissed from service on 12-4-99. Document Exhibit M-10 is copy of award passed in this matter. Entire evidence is considered, the copies of attendance register produced on record are not proved by this witness. No evidence in that regard is adduced. Witness was terminated from service in 1999. He claims ignorance on material particulars asked to him. Therefore his evidence appears not worth of reliance.

15. Management submitted evidence on affidavit Shri Subbarao Manager. The substance of his affidavit is that any of the claimant/ workers were not working in the mine. The appointments of III, IV employees in Coal Industry are made by General Manager. That as per provisions of Mines Act , records like Form B register, Attendance Register is mandatory. Each of the employee is given token number for identification. The employees covered under PF Act, contributions are deducted from wages. That the contract of the work was issued to M/s. Shanti Kumar Sancheti. The work order was issued on 8-2-94. Letter of intent was issued on 5-11-93 and other details of tender notice and agreement are stated by him. The drivage work was given to contractor for opening and excavation. From his further evidence, documents Exhibit M-2 to M-8 are proved. Those documents relates to subsequent period i.e. in 1994 whereas the workman claims to be working during October 88 to October 1993. This witness in his cross-examination says Form B Registers were separately maintained. That he was not

working at Nagpur Headquarter. Contractor did not sign agreement in his presence. He admits that without consent of Mines Manager, the concerned persons cannot work in the mine. That as he had seen list of persons, on his basis, he said that workmen never employed by the management. Work of Incline No.1,2 was completed before Incline No.3,4. If documents M-2 to M-8 are considered pertain to the year 1994, work of Incline No.1,2 was carried before 1994. The witness says work of Incline No.1,2 was done through department. About 400 workers were working as employees of WCL the documents Exhibit M-8, M-9 produced by 1Ind party donot contain names of any of above workers. Above factual position was not in dispute during course of argument. I may further make it clear that the zerox copy of attendance register is produced by 1Ind party but are not proved by adducing any kind of evidence.

16. Management has filed affidavit of Shri Pancham Rao Hadipur, Sham Kumar Chourasia, Srikant Lokhande, Chait Nagle, Hari Prasad Soni, Mohd. Hanif but they were not made available for cross-examination therefore their evidence cannot be considered.

17. Management's witness Satish Kumar Dubey in his affidavit has stated that he was working as Dy. Manager (P). management maintains Form B Register, Attendance Register. There are entries of 740 employees working during 1988 to 1994. It is not possible for management to prepare attendance register for all those years. From evidence of those witness Exhibit M-8 to M-11 are proved. It is suggested to say that names of workmen are not appearing in any of those documents. In his cross-examination, witness says that he was appointed in 1986 as Pharmacist. In 1988 joined in Personnel Deptt. That Form B,C, D are maintained under authority of Mines Manager. He was not given letter to Mines Manager to present those documents in court. Such letter is not required. Genuiness of entries in those documents is not challenged in his cross-examination. He admits that names of employees working underground mines are entered in Form C Register. He denies suggestion that he found Form B wage register but same was produced deliberately. Names of 740 workers working in mine are given in his affidavit. If evidence in cross examination of Shri Suresh S/o Ayodhya and Shiv Ram is carefully considered, they have narrated details of working in mine, payment of wages, control/ supervisor of their work. There is no suggestion to both of them that they were working as contract labour from 1994 and there is also no suggestion that they were not working in the mine from October 88 to 1993. Suggestions given to them that they were working as contractor labour and engaged by management is eloquent about their work in Tandsi project. Those workmen are semi-literate but received education upto 7th, 8th standard. They are negligent in prosecuting their claim since 1996. That is any how prolonged for one or other reasons. No suggestion is given to them that they were work-

contractor's labours as per evidence of management's witnesses Form B was maintained in respect of all employees, management has not produced Form B register of those witnesses therefore I do not find reason to discard their evidence.

18. Learned counsel for workmen Shri R. C. Srivastava relied on ratio in

Case of Rohtas Industries Ltd. versus Brijnandan Pandey and others reported in AIR-1957-SC-1. Their Lordship dealing with powers and duties of Industrial Tribunal held the discretion which an Industrial Tribunal has must be exercised in accordance with well recognized principles. There is undoubtedly a distinction between commercial and industrial arbitration. Industrial arbitration may involve the extension of an existing agreement, or the making of a new one or in general the creation of new obligations or modifications of old ones, while commercial arbitration generally concerns itself with interpretation of existing obligations and disputes relating to existing agreements. A Court of law proceeds, on the footing that no power exists in the courts to make contracts for people and the parties must make their own contracts.

In present case, legality of termination of 379 workers or violation of Section 25-F is challenged. The pleadings of parties are clear. IInd party denies employment of 1st party. The defence is that workmen were contract labours. The ratio in above case has no direct bearing between the controversy between parties.

On the point of jurisdiction of Tribunal, learned counsel for workmen Shri Srivastava relies on ratio held

Case of Pottery Mazdoor Panchayat versus Perfect Pottery Company Ltd. reported in AIR 1979-SC-1356. Their Lordship held the jurisdiction of Tribunal in industrial disputes is limited to the points specifically referred for its adjudication and to matters incidental thereto and the Tribunal cannot go beyond the terms of reference. Where the very terms of references showed that the point in dispute between the parties was not the fact of closure of its business by the employers and the references were limited to the narrow question as to whether the closure was proper and justified, the Tribunals by the very terms of the references, had no jurisdiction to go behind the fact of closure and inquire into the question whether the business was infact closed down by the management.

The facts of present case are not comparable as terms of reference are clear whether termination of services of workmen is in violation of Section 25-F of I.D. Act.

principles laid down by the Lordship in above case cannot be beneficially applied to the case at hand.

20. On the point of completion of 240 days continuous service, learned counsel for workmen submitted that workmen have completed 240 days continuous services from 88 to 93. In support of his argument reliance is placed on ratio held in

Case of H.D.Singh versus Reserve Bank of India and others reported in 1985(4) SCC 201. Their Lordship dealing with Section 25(B)(2)(a)(ii) held actual working for not less than 240 days in a year. The evidence regarding employer's failure to produce attendance register to controvert workman's claim on the facts held, workman's claim acceptable.

In present case, the evidence of witnesses Suresh and Shiv Prasad that they were working with IInd party from 1988 is not shattered. The defence of IInd party that they were working as contract labour is not supported by documents as the documents Exhibit m-2 to M-8 are of the period 1994. Those documents do not pertain to the disputed period. As per evidence in cross-examination of management's witness Subbarao, the work of Incline No.1,2 was carried departmentally prior to work of Incline No.3,4. Therefore the ratio cannot be applied beneficially.

21. Learned counsel for IInd party Shri A.K.Shashi submits that workman have not discharged burden of proving 240 days continuous service. For non-production of documents, adverse inference could not be drawn against IInd party. Reliance is placed on ratio held in

Case of U.P.State Warehousing Corporation and another versus Presiding Officer and another reported in 2013-III-LLJ-213(Allahabad). His Lordship dealing with burden of proof held Labour Court considering that petitioners failed to prove that workers were engaged by contractors and directed reinstatement. Held person who files a claim is required to prove his case. Industrial dispute raised by Union, burden of proof is upon Union and its workers to prove their claim before Labour Court. Union did not prove that they were appointed or engaged directly by petitioners. Workers not proved that they worked for more than 240 days in calendar year or that they were paid wages by petitioners. Labour Court erred in putting entire burden upon employer. Award of Labour Court cannot be sustained and is quashed. Petition allowed.

In present case, the evidence of Suresh and Shiv Prasad about their working with IInd party during 1988 to 1993 is not shattered. The defence of workmen is at

they were contract labours. However Form B Register are not produced. Therefore the evidence of both witnesses cannot be rejected outright.

22. Learned counsel for IIInd party Shri A.K.Shashi on the point of delay in raising dispute relies in ratio held in

Case of Chandrappagol A.G versus Asstt. Executive Engineer, Ghataprabha Right Bank Canal Construction reported in 2004-II-2003-460. Their Lordship of Karnataka High Court dealing with scope of Section 10(1) held Government to exercise power in deemed industrial disputes. Dispute can cease to exist on account of delay. Government can reject request for reference of dispute on this ground. Labour Court can also reject state dispute/claim.

The ratio cannot be applied to present case as workmen are knocking door for justice from 1996. Initially the Government rejected to make reference. They were required to file Writ Petition which was decided in 2004. For above reasons, ratio cannot be applied to present case at hand.

In case of Surendranagar District Panchayat vrs. Dahyabhai Amarsingh reported in 2005(8) SCC-750, their Lordship dealing with Section 25-F, B, 2(oo) & 2(s) of I.D. Act held facts that must be proved by workman to claim protection under Section 25-F are that (i) there exists relationship of employer and employee, (ii) he is a workman under Section 2(s), (iii) establishment in which he is employed in an Industry within meaning of the Act and (iv) he has put in not less than one year of continuous service.

The evidence of both workmen satisfies all those test as their evidence is not shattered in cross-examination about their working in 1988 to 1993 and form B Register of workman is not produced by management despite of its defence that workmen were contract labours. The ratio held in the case therefore cannot be applied to this case beneficially.

Reliance is also placed in ratio held in case of General Manager (OSD) Bengal Nagpur Cotton Mills versus Bharat Lal reported in 2011-I-LLJ-321. Their Lordship held employee had to prove the facts which would satisfy about tests. He did not discharge the onus to prove the facts which would satisfy the above tests.

Considering evidence of both workmen discussed above, the ratio held in the case cannot be applied to case at hand.

23. Other workmen have not signed statement of claim, they have not entered in witness box. As per evidence in cross-examination of Shri Suresh, dispute was raised individually and not by Union. In absence of any pleadings on behalf of rest of Union, it is surprised to say that their claim cannot be accepted.

24. For reasons discussed above. I hold that Shri Suresh and Shiv Prasad were working as employees of IIInd party. Their services are terminated in violation of Section 25-F of I.D. Act. therefore I record my finding in Point No.1 partly in Negative in respect of Shri Suresh and Shri Shiv Prasad.

25. Point No.2- in view of my finding in Point No.1, question arises whether Shri Suresh and Shiv Prasad are entitled for reinstatement with back wages. Their evidence in cross-examination shows that recruitment process was not followed at the time of appointment. Learned counsel for workman Shri R. C. Srivastava submits that workmen were continued on daily wages and therefore the workmen are entitled for reinstatement.

Reliance is placed on ratio held in

Case of BSNL versus Bhurumal reported in AIR-2014-SSC-1188. Their Lordship held the ordinary principle of grant of reinstatement with full back wages, when the termination is found to be illegal is not applied mechanically in all cases. While that may be a position where services of a regular/permanent workman are terminated illegally and/or malafide and/or by way of victimization, unfair labour practice etc. However when it comes to the case of termination of a daily wage worker and where the termination is found illegal because of procedural defect, namely in violation of section 23-A, reinstatement with back wages is not to be automatic. Instead the workman should be given monetary compensation which will meet the ends of justice.

In present case, workmen were not appointed following recruitment process. They were working on daily wages, they were not regularly appointed therefore the reinstatement with back wages would not be justified.

On the above point, reliance is also placed on ratio held in

Case of Anoop Sharma versus Executive Engineer, Public Health Division No.1, Panipat (Haryana) reported in 2010(5) SCC 497. Their Lordship restored reinstatement with back wages directed by Labour Court observed that High Court reversing award in writ jurisdiction on ground that workman's initial engagement was not legal. High Court erred in interfering with award of Labour Court in absence of pleadings that initial engagement was illegal .

In present case, both witnesses Suresh and Shiv Prasad were not appointed following recruitment process therefore ratio held in the case cannot be applied to case at hand. On the point of reinstatement with back wages

cannot be granted to workmen, reliance is placed by Shri A. K. Shashi on ratio held in

AIR-2005-SC-1790, 2007-I-SCC-408, 2006(2) SCC-716, 2011-LAB-I.C.4322. The principles laid down in all those cases that mere completion of 240 days continuous services does not give right for regularization of service. Creation of posts, appointment, regularization, fixing of pay scales, continuation in service, promotion etc. authorities competent to take decisions in respect of such matters. That all the said functions are executive or legislative and it is highly improper for Judges to step into this sphere, except in rare and exceptional cases.

Considering evidence on record discussed above and facts of the case, as the workmen were not appointed following conciliation process, they were engaged on daily wages, they are not entitled for reinstatement with back wages, they are not entitled for reinstatement with back wages. Workman Shri Suresh and Shiv Prasad deserves reasonable compensation for termination of their service in violation of Section 25-F. Considering evidence and period of working, compensation Rs. One Lakh to each of them would be reasonable. Accordingly I record my finding at Point No.2.

In the result, award is passed as under:-

- (1) The action of the management of WCL, Kanhan area, PO Dungaria, distt. Chhindwara (MP) in terminating the services of Shri Suresh and Shri Shiv Prasad is not legal and proper. The claim of rest of the workers is rejected.
- (2) Hind party is directed to pay compensation Rs.1 Lakh to each workmen namely Shri Suresh and Shri Shiv Prasad.

Amount as per above order shall be paid to workman within 30 days from the date of notification of award. In case of default, amount shall carry 9 % interest per annum from the date of award till its realization.

Original Form B Register produced on record be returned to the Hind party.

R. B. PATLE, Presiding Officer

नई दिल्ली, 29 अक्टूबर, 2014

का.आ. 2889.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इ. सी. एल. के व्यवस्थाएँ के संवेद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम यायालय, आसनसोल के पंचाट (संदर्भ संख्या 01/1999) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29/10/2014 को प्राप्त हुआ था।

[सं. एल-22012/36/1998-आईआर (सीएम-2)]

बी. एम. पट्टनायक, डेस्क अधिकारी

New Delhi, the 29th October, 2014

S.O. 2889.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 01/1999) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol now as shown in the Annexure in the Industrial Dispute between the management of Central Hospital Kalla of M/s. ECL and their workman, received by the Central Government on 29/10/2014.

[No. L-22012/36/1998-IR(CM-II)]

B. M. PATNAIK, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

PRESENT: Sri Pramod Kumar Mishra, Presiding Officer

REFERENCE NO. 01 OF 1999

PARTIES: The management of CMO, Central Hospital Kalla of M/s. ECL

Versus

Late Khudiram Badhyakar

REPRESENTATIVES:

For the management : Sri. P.K. Das, Ld. Adv.

For the union (Workman) : None

INDUSTRY: COAL STATE : WEST BENGAL

Dated – 17.10.2014

AWARD

In exercise of powers conferred by clause (d) of Sub-section(1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), Govt. of India through the Ministry of Labour vide its Order No. L-22012/36/98-IR(CM-II) dated 11/15.12.1998 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

“Whether the action of the management in not providing employment to the dependent of Late Khudiram Badyakar, Ex-Staff of Kalla Hospital, M/s. ECL is justified and legal? If not, to what relief is the workman entitled?”

Having received the Order of Letter No. L-22012/36/98-IR(CM-II) dated 11/15.12.1998 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a Reference Case No. 01 of 1999 was registered on 06.01.1999 and accordingly an order to that effect was passed to issue

notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

Sri P. K. Das Ld. Adv. is present on behalf of the management but none appeared on behalf of the union. On perusal of the record I find that after 11.03.2010 none appeared on behalf of the union/workman. Since then more than 20 opportunities were given but to no effect. Registered notice was sent to the union on 16.07.2014 as a last chance for appearance of the claimant. More than one month has already been passed but even then none appeared on behalf of the union. It seems that the workman is no more interested to proceed with the case further. This is one of the oldest case - in the year 1999. I find no reason to keep this old record pending. As such the case is closed and accordingly a 'No Dispute Award' may be passed.

ORDER

Let an "Award" be and the same is passed as "No Dispute" existing. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi for needful information. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer

नई दिल्ली, 29 अक्टूबर, 2014

का.आ. 2890.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ई. सी. एल. के प्रबंधतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/प्रमन्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 04/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29/10/2014 को प्राप्त हुआ था।

[सं. एल-22012/596/1999-आईआर (सी-II)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 29th October, 2014

S.O. 2890.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 04/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure in the Industrial Dispute between the management of the Perbelia Colliery of M/s. ECL and their workmen, received by the Central Government on 29/10/2014.

[No. L-22012/596/1999-IR(C-II)]

B. M. PATNAIK, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

PRESENT: Sri PRAMOD KUMAR MISHRA, Presiding Officer

REFERENCE NO. 04 OF 2004

PARTIES: The management of Perbelia Colliery of M/s. ECL

Versus

Shri Shivnandan Pandit

REPRESENTATIVES:

For the Management : Sri. P. K. Das, Ld. Adv.

For the Union (Workman) : None

INDUSTRY: COAL STATE : WEST BENGAL

Dated-13.10.2014

AWARD

In exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), Govt. of India through the Ministry of Labour vide its Order No. L-22012/596/99/IR(C-II) dated 16.01.2004 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

"Whether the action of the management of Parbelia Colliery of M/s. ECL in not protecting the pay of the workman, Shri Shivnandan Pandit at the time of his conversion from piece rated to time rated job is legal and justified? If not, to what relief the workman is entitled?"

Having received the Order of Letter No. L-22012/596/99/IR(C-II) dated 16.01.2004 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a Reference Case No. 04 of 2000 was registered on 04.02.2004 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

On Perusal of the case record I find that my predecessor (Late M. R. Pattnaik, the then P.O.) had reserved an award in this case because the union/workmen neither appeared nor took any step after 09.11.2006. It seems that the workman is no more interested to proceed with the case further. As such the case is closed and accordingly a 'No Dispute Award' may be passed.

ORDER

Let an "Award" be and the same is passed as "No Dispute" existing. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi for needful information. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer

नई दिल्ली, 29 अक्टूबर, 2014

का.आ. 2891.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ई. सी. एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/प्रम न्यायालय, असनसोल के पंचाट (संदर्भ संख्या 53/2007) को प्रकाशित करती है जो केन्द्रीय सरकार को 29/10/2014 को प्राप्त हुआ था।

[सं. एल-22012/110/2007-आईआर (सीएम-II)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 29th October, 2014

S.O. 2891.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 53/2007) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure in the Industrial Dispute between the management of the Jhanjra Area of M/s. ECL and their workmen, received by the Central Government on 29/10/2014.

[No. L-22012/110/2007-IR(CM-II)]

B. M. PATNAIK, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVT. INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT,
ASANSOL**

PRESENT :

Sri PRAMOD KUMAR MISHRA, Presiding Officer

REFERENCE NO. 53 OF 2007

PARTIES : The management of Jhanjra 1 & 2 Incline, ECL

Versus

Sri Khudiram Bouri

REPRESENTATIVES :

for the Management : Sri P. K. Das, Ld. Advocate

for the Union (Workman) : Sri S. K. Pandey, General Secretary, CMC

INDUSTRY: COAL STATE: WEST BENGAL

Dated - 20.10.2014

AWARD

In exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), Govt. of India through the Ministry of Labour vide its letter No. L-22012/110/2007- IR(CM-II) dated 09.07.2007 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

"Whether the action of the management of M/s. ECL in dismissing Sri Khudiram Bouri w.e.f. 17.08.2006 is legal and justified? If not, to what relief is the workman entitled?"

Having received the Order No. L-22012/110/2007-IR(CM-II) dated 09.07.2007 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No. 53 of 2007 was registered on 26.07.2007. Accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned, directing them to appear in the court, on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned. Both the parties appeared in the Tribunal, through their representative.

In brief the fact stated in the written statement of the workman is that workman namely Sri Khudiram Bouri was in employment of the company Jhanjra 1 & 2 Incline Jhanjra Area, ECL as U/G loader. Workman Sri Khudiram Bouri fell sick. He was treated at Bankola area Hospital w.e.f. 19.01.2006. Since there was no improvement, for better treatment he went to private practitioner. Being declared fit he reported for duty. But management did not allow him to rejoin his duty. The concerned workman was charge sheeted vide charge sheet No. AGT/JNP/1&2/P/CS/06/31 dated 25.02.2006 for unauthorized absence. The workman submitted his treatment papers etc. before the Enquiry Officer. Though workman participated in the enquiry proceeding, but he was not given proper opportunity to defend his case. The enquiry officer was highly prejudiced and biased against the concerned workman. The points which were not raised by the management representative were incorporated. Thus the findings of the Enquiry Officer were not based on record. The management did not follow the principle of natural justice and passed the Dismissal Order without giving any reasonable opportunity to prove his innocence. The dismissal of Sri Khudiram Bouri from the company is illegal and unjustified. The workman belongs to downtrodden community. He is sitting idle without any job his family is at the stage of starvation. It has been prayed by the workman that the management of Jhanjra 1 & 2 Incline, Jhanjra Area, ECL to reinstate the workman

with payment of full back wages for the period from the date of dismissal with all consequential benefits.

Written statement has been filed by the management. Management has stated in the written statement that dispute raised by the union is entirely misconceived. The concerned workman Sri Khudiram Bouri was an employee of Jhanjra 1 & 2 Incline, Jhanjra Area, ECL, he was working as Cleaning Mazdoor. Ex-workman remained absent from his duty unauthorizedly since 13.01.2006 without any prior permission or station leave and as such the ex-workman was charge sheeted vide charge sheet No. AGT/JNR/P/CS/06/31 dated 25.02.2006 for his act of misconduct as per the provisions of Standing Order applicable to the establishment under clause 26.29 and 26.23. The domestic enquiry was held into the said charge sheet by the Enquiry Officer. Ex-workman failed to submit any satisfactory reply. Ex-workman duly participated in the enquiry proceeding and all reasonable opportunities were afforded to the workman to defend his case in accordance with the principle of natural justice. Enquiry Officer found ex-workman to be guilty for the charges as labeled against him. After careful consideration of the charge sheet, enquiry proceedings, enquiry report and other connected papers the ex-workman was terminated from his service by the disciplinary authority for his misconduct. The punishment warded to the workman was quite proportionate and befitting. The management has denied in his written statement that workman was sick and he was treated by private practitioner. It is also denied by the management the Enquiry Officer was highly prejudiced and biased against the concerned workman. It is also denied by the management the principle of natural justice was not complied. Termination Order is legal and justified there is no illegality in the Termination Order.

Workman has filed photo state copy of enquiry proceeding, enquiry report, copy of treatment and copy of dismissal order. Workman Sri Khudiram Bouri has examined himself under oath.

No documentary or oral evidence has been adduced by the management.

I have heard the argument of Sri S. K. Pandey on behalf of the union/workman and Sri P. K. Das Ld. Advocate on behalf of the management.

It is admitted fact that delinquent workman Sri Khudiram Bouri was working as Cleaning Mazdoor in Jhanjra 1 & 2 Incline, Jhanjra Area of ECL before his dismissal. The basis of Dismissal Order is unauthorized absence of the delinquent workman from 13.01.2006

The Standing Order Eastern Coalfields Limited describes the acts of misconduct. According to the Standing Order if any workman is absent from duty beyond 10 days without sanctioned leave or sufficient cause or over staying beyond sanction leave without valid reasons he is guilty of misconduct. As per allegation of

the management delinquent workman was absent from 13.01.2006 without any prior permission or sanctioned leave. Therefore he was charge sheeted for act of misconduct, which is described in the Standing Order. Sri S. K. Pandey argued that the delinquent workman Sri Khudiram Bouri was sick. Due to his sickness he did not intimate the management. There was none on behalf of the workman to intimate the management about his illness. But in spite of that he participated in the enquiry proceeding, but the enquiry proceeding is unfair and biased against the workman Sri Khudiram Bouri. On the other hand Sri P. K. Das, Ld. Adv. on behalf of the management has argued that the delinquent workman was absent from 13.01.2006 without any leave. His absence was unauthorized, therefore departmental enquiry was held. In enquiry report he was found guilty, therefore he was dismissed.

In departmental enquiry the charge sheet is the charter of enquiry proceeding. Service of charge sheet upon delinquent workman and after service of charge sheet the reply of concerned workman is fundamental procedure of domestic enquiry. But in record there is absence of charge sheet. The charge sheet has not been filed by any parties to the reference. Though in written statement both the parties stated about the charge sheet.

Enquiry Officer in his enquiry report has observed three points:

- (i) Sri Khudiram Bouri was absenting from duty since 13.01.2006.
- (ii) He did not send any information.
- (iii) Sri Khudiram Bouri is habitual absentee.

So far as point (i) is concerned, delinquent workman Sri Khudiram Bouri has filed his treatment paper. He was treated in Bankola Area hospital of ECL from 19.01.2006 to 25.01.2006 and then referred to Kalla Hospital of ECL by senior Medical Officer. From 26.01.2006 to 28.01.2006 delinquent workman was under treatment of Dr. Badri Chandra De. Delinquent workman Sri Khudiram Bouri since he was sick he was absent from duty.

Though Sri Khudiram Bouri, ought to have sent information to the management about his sickness. But in enquiry proceeding he didn't send any information to the management. So far as point (iii) is concerned delinquent workman is habitual absentee, no document has been filed in enquiry report. If there is no allegation in the charge sheet, regarding his previous absence. Then, enquiry cannot be conducted regarding his previous absence. There is a clear violation of natural justice in enquiry proceeding. It has been observed several times clearly in different Hon'ble High Courts and Hon'ble Supreme Court.

that before imposing a punishment of dismissal it is necessary for the disciplinary authority to consider socio-economic background, length of service, past record and other surrounding and compelling circumstances to commit the misconduct. These are the relevant factor which must to be kept in mind by the authority at the time of imposing punishment, which has not been done by the authority in this case. The memorandum of Standing Order laid down under 27(1) where various minor punishment are prescribed to be awarded according to the gravity of the misconduct. Keeping in view the gravity of alleged misconduct, the maximum punishment of dismissal awarded to the delinquent workman is not justified. Unauthorized absence of few months without any mala fide intension, the punishment of dismissal to delinquent workman is not just and proper, rather which is too harsh a punishment, which is totally disproportionate to alleged misconduct. Before imposing a punishment, the workman ought to have been given a show cause notice but absence of such document is apparent in the record.

Considering the whole facts and circumstances of the case, discussed above, I come to conclusion that the action of the management of M/s. ECL in dismissing Sri Khudiram Bouri w.e.f. 17.08.2006 is illegal and unjustified. set-a-side the order of dismissal of Sri Khudiram Bouri. Management is directed to re-instate Sri Khudiram Bouri with the continuity of service. I think it appropriate that the delinquent workman be imposed a punishment of topage of two increments without any cumulative effect. It is further directed that the concerned workman will be entitled to get only 50% of the back wages.

ORDER

Let an "Award" be and the same is passed as per above discussion. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi for information and needful. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer

नई दिल्ली, 5 नवम्बर, 2014

का.आ. 2892.—औद्योगिक विवाद अधिनियम, 1947 (1947-14) की धारा 17 के अनुसरण में केन्द्रीय सरकार आई.एफ.एफ.ओ. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के द्वारा, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 2/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 05/11/2014 प्राप्त हुआ था।

[सं. एल-42012/53/2004-आईआर (सीएम-II)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 5th November, 2014

S.O. 2892.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 38/2005) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad (Gujarat) now as shown in the Annexure in the Industrial Dispute between the management of the IFFCO, and their workman, received by the Central Government on 05/11/2014.

[No. L-42012/53/2004-IR(CM-II)]

B. M. PATNAIK, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present : Binay Kumar Sinha, Presiding Officer
CGIT-cum-Labour Court,
Ahmedabad

Dated 15th May, 2014

Reference (C.G.I.T.A) No. 38/2005

The General Manager IFFCO, Kandla (Kutch)	...First Party
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And

Their Workman Shri M.V. Sisodia Plot No. B-53, 4-A, IFFCO Society, Adipur, Kutch	...Second Party
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For the First party : Shri P.S. Gogia, Advocate

For the second party : Workman himself

AWARD

As per letter No. L-42012/53/2004 (IR (CM-II)) New Delhi dated 15.04.2005, the Government of India, Ministry of labour referred the dispute for adjudication to this Tribunal in respect of the matter specified in the Schedule:

SCHEDULE

"Whether the action of the management of IFFCO, Kandla in terminating the services of Sh. M.V. Sisodia, Junior Security Officer (PGS) Shift Incharge, w.e.f. 12.07.2002 is legal and justified? If not, to what relief the workman is entitled to?"

2. The parties to the case appear and filed respective pleadings/S.c (Ext.6) by the 2nd party workman and W.s

(Ext.9) by the 1st party. The 2nd party (workman) has pleaded that the action of the management of IFFCO in terminating him from the service with effect from 12.07.2007 is quite illegal and unjustified challenged the propriety and validity of the domestic inquiry against him and praying for reinstatement with full back wages. On the other hand the contention of the 1st party interalia is that the reference is not maintainable, the delinquent workman has no cause of action departmental enquiry was conduct in proper manner observing the principles of natural justice and the charges levelled against the delinquent workman was of gross misconduct which was proved in the domestic enquiry and the punishment of termination awarded to the workman is legal and justified. The parties have filed their documents in this case. The 1st party (IFFCO) has filed the zerox copy of entire enquiry file. The matter was fixed for evidence of the 2nd party. The 2nd party failed to lead evidence and so his right to lead evidence was closed and the case is running for leading evidence by the 1st party.

3. The parties have amicably settled the dispute in this case by filing memorandum settlement (Ext.14) and have prayed for disposal of the case and to pass the award in terms of settlement dated 15.05.2014. From perusal of the memorandum of settlement Ext.14 it appears that the settlement signed by R.S. Sisodia for and on behalf of the IFFCO (Kandla) identified by the 1st party Lawyer Shri P.S. Gogia, Advocate on one hand and Shri M.V. Sisodia (the 2nd party workman) whose signature has been identified by Shri R.A. Ambwani, Ex-DGM (P&A), IFFCO, Kandla. The memorandum of settlement filed today is in order containing the signature of the parties to the dispute. In the memorandum settlement as per terms of settlement of Shri M.V. Sisodia (2nd party workman) will withdraw this reference case seeking for relief of reinstatement with back wages and the management will pay on lumpsum amount

Rs. 1,00,000/- (Rs. One Lakh Only) to workman Shri M.V. Sisodia in full and final settlement of his all claim and that he will not raise dispute in future and that management of IFFCO shall have no objection if the workman gets pension from concerned authority as per rules of the Employee's Pension Scheme, 1995.

4. In such view of the matter this reference case is dismissed as withdrawn by the 2nd party workman in terms of the settlement and the terms of the statement is made part of the award.

BINAY KUMAR SINHA, Presiding Officer

नई दिल्ली, 5 नवम्बर, 2014

का.आ. 2893.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसार में केन्द्रीय सरकार डब्ल्यू. सी. एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक

अधिकरण एवं श्रम न्यायालय, नागपुर के पंचाट (संदर्भ संख्या 152/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार द्वारा 05/11/2014 को प्राप्त हुआ था।

[सं. एल-22012/226/2002-आईआर (सीएम-II)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 5th November, 2014

S.O. 2893.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 152/2003) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure in the Industrial Dispute between the management of the M/s. Western Coalfields Limited, and their workmen, received by the Central Government on 05/11/2014.

[No. L-22012/226/2002-IR(CM-II)]

B. M. PATNAIK, Desk Officer

ANNEXURE

**BEFORE SHRI J.P.CHAND, PRESIDING OFFICER,
CGIT-CUM-LABOUR
COURT, NAGPUR**

Case No. CGIT/NGP/152/2003

Date: 09.10.2014.

Party No.1 : The Chairman & Managing Director, M/s. Western Coalfields Limited, Coal Estate, Civil Lines, Nagpur, Nagpur: 440001.

Versus

Party No.2 : The Joint General Secretary, Rashtriya Koyalak Khadan Mazdoor Sangh (INTUC), Plot No. 604, Giripeth, Nagpur, Nagpur: 440010.

AWARD

(Dated: 9th October, 2014)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of Western Coalfields Limited and their workman, Shri Sandemani Komarayya, for adjudication, as per letter No.L-22012/226/2002-IR (CM-II) dated 11.07.2003, with the following schedule:-

"Whether the demand of the RKKMS from the management of M/s. Western Coalfields Limited, Nagpur (Maharashtra) for giving employment under clause 9.4.0 of the National Coal Workers Agreement-VI to the dependent of Shri Sandemani Komarayya S/o Yellaya, Ex-Carpenter, New M...

Colliery No. 3 after declaring the workman medically unfit for continued employment is legal and justified? If so, to what relief is the said dependent of the workman entitled?"

2. On receipt of the reference, the parties were noticed to file their respective statement of claim and written statement and accordingly, the union, RKKMS ("the union" in short) filed the statement of claim on behalf of the workman, Shri Sandemani Komarayya, ('the workman" in short) and the management of Western Coalfields Limited ("Party No. 1" in short) filed their written statement.

The case of the applicants as present by the union in the statement of claim that is a registered trade union under the Trade Unions Act, 1926 and the workman, Sandemani Komarayya was a permanent workman of New Majri Colliery Mine No. 3, having been appointed on 31.12.1972 and Party No. 1 is a Government Coal Company fully owned and controlled by the Central Government and is a "State" under article 12 of the Constitution of India and the workman, who was working as a carpenter suffered a paralytic attack in his right side of the body i.e. in right hand and right leg on 06.07.2000, for which, he was referred to C.T. Scan centre, Chandrapur on 07.07.2000 by Dr. Tikas of Majri Area Hospital of Party No. 1 and in the C.T. Scan Report, Dr. Anil U. Madhurwar, consulting Radiologist and Sonologist, Chandrapur recorded the impression that, "Acute Hemorrhagic infarct present in the right middle cerebral artery territory. Another acute moderate size infarct present in left middle central artery territory" and on the basis of the said medical report, the workman was granted half pay special leave from 06.07.2000 to 28.12.2000 and the workman received regular treatment from Majri Area Hospital, but he could not recover from the disease of paralysis and he was not fit to work as a carpenter, which job requires the use of both hands and hard labour, but the workman was declared medically fit for duty w.e.f. 28.12.2000, by the Chief Medical Officer I/C of Majri Area Hospital, by letter dated 25/26.12.2000 and before such declaration, fresh C.T. Scan of the workman was not done by Party No. 1 and the declaration regarding the fitness of the workman for duty from 28.12.2000 by the Chief Medical Officer was without application of mind and not based on any fresh C.T. Scan report and the workman applied for his medical unfitness, under clause 9.4.0 of NCWA-VI, since he was suffering from paralysis and not fit to perform duties of a carpenter and as the workman was illegally declared fit for duty from 28.12.2000, he was simply marking the attendance and was not performing any kind of work and as the workman was not able to walk even, his son used to bring him every day to the Mine to get his attendance marked in the Time office and then to take him back to the house and on the basis of

the application of the workman for his medical unfitness under clause 9.4.0 of NCWA-VI, the workman was directed by the Manager, New Majri Colliery to appear before the Medical Board of the Party No. 1 on 30.12.2000 and accordingly, the workman appeared before the Medical Board at WCL (HQ) on 30.12.2000 and the workman was communicated by letter dated 01/16.01.2001, by the Deputy Personnel Manager, New Majri Sub Area that the 9.4.0 Medical Board examined him on 30.12.2000 and found him fit and being aggrieved by the decision of the 9.4.0 Medical Board, the workman made an appeal to the Chairman-cum-Managing Director, WCL, Nagpur on 10.01.2001, requesting to refer his case to the Appellate Medical Board, WCL, Nagpur and the workman was directed to appear before the Appellate medical Board on 20.09.2001 and he appeared before the Appellate Medical Board on 20.09.2001 and after his examination by the Appellate Medical Board, the workman got himself medically examined on 25.09.2001 as per the advice of Dr. Jayant Pande, the consulting Neurologist, by undergoing C.T. Scan at Advance Scanning Research Institute Private Limited, Nagpur and on the basis of the C.T. Scan examination, the impression of the concerned doctor was that there were small pontine infarcts and infarcts in both ganliocapsalar and paraventricular regions, more on left and based on the C.T. Scan report, Dr. Jayant Pande issued a certificate stating that the workman is incapable to perform any useful activity with his right hand due to paralysis and he is unfit to do any responsible job like a carpenter in future and the workman by his representation dated 26.09.2001 requested the Chairman-Cum-Managing Director, the Executive Director (Medical Services), CGM (P), the Director(T), the Director (Technical & Projects) and Director (F) of the party no.1 to declare him medically unfit due to his suffering from paralysis in right side, enclosing the C.T. Scan report and report of Dr. Pande and the union also, by forwarding the representation dated 26.09.2001 to the authorities requested to declare the workman medically unfit under clause 9.4.0 of NCWA-VI and by communication dated 06.12.2001, the Deputy Chief Medical Officer, WCL(HQ), Nagpur addressed to Chief General Manager, WCL, Majri Area conveyed that the Appellate Medical Board had found the workman fit and the finding of the Appellate Medical Board was totally illogical on the ground that the workman's date of retirement was indicated by the said board in its report and the Board intentionally and deliberately declared the workman medically fit, as he was due to retire on 04.12.2001 and the same was with malafide intention to deny employment to the dependent of the workman and such action was illegal and unfair.

Prayer has been made to declare the decision of the Medical Board dated 30.12.2000 and the Appellate Medical Board dated 20.06.2001 as unjustified and

unreasonable and to quash the same and to declare that the workman was medically unfit under clause 9.4.0 of NCWA-VI and to direct the party no.1 to give employment to the dependent of the workman with payment of back wages.

3. The party no.1 in the written statement, denying all the adverse allegations made in the statement of claim, has pleaded inter-alia that the workman got his normal retirement from service after reaching the age of superannuation on 04.12.2001 and the question of providing employment to a dependent does not arise in case of normal retirement of an employee and in the reference the validity of retirement of the workman has not been questioned, therefore, the question of providing employment to his dependant does not arise and the very term of reference being far from the real issue involved is not legally tenable and the workman while in service was a member of the union, "Koila Shramik Sabha", which is evident from the check off system and when the cause of action is alleged to have arisen, the workman was not a member of the union and the union is not legally competent to espouse the cause of the workman and this issue was raised in the conciliation and also before the Ministry and since this is a legal issue and the conciliation officer and the Ministry were not competent to decide the issue, the validity of the reference has to be decided by the Tribunal and the dispute relates to Majri colliery falling under the jurisdiction of the ALC (C), Chandrapur, yet, the ALC, Nagpur intervened under the pressure from Jt. Gen. Secretary of the union and the action of the union to raise an industrial dispute on behalf of a non-member is not only against the provision of law, but also against the ethics of the code of conduct and the validity of the reference on these grounds is questionable.

It is further pleaded by the party no.1 that when the industrial dispute was raised by the union on 20.12.2003, after a gap of nearly two years of the normal retirement of the workman and at the time of raising of the dispute, there was no employer-employee relationship between him and the management and for want of employer-employee relationship, the reference is void and bad in law and hence, not maintainable.

The further case of party no.1 is that on 06.07.2000, the workman was reported to be suffering from partial paralysis and therefore, he was referred to C.T. Scan centre for assessment of the extent and nature of disease and the doctor did not indicate total disability and the workman to have partially affected by the disease and in order to facilitate his treatment and recovery, he was granted six months special leave at 50% pay in accordance with the relevant provisions of NCWA then applicable and after the completion of the treatment, the company's Physician, examined the workman and found him fit for duty and he was accordingly advised by the CMO to report for duty, which was complied by him and the workman

made a representation that he should be medically examined by the Medical Board for the purpose of assessment as to whether he was fit to work, so as to provide employment to his dependent in his place and following the provisions of NCWA, the workman was referred to the Medical Board constituted for the said purpose and he was advised to appear before the Medical Board on 30.12.2000 and while applying for medical examination, the workman had mentioned that due to some accident in the past, his mind was not functioning properly and he was having pain in his waist, eye strain and stomach and become weak, for which, he was in difficulty and he did not mention a word about the allusion of paralysis and the Medical Board comprising of five doctors examined the workman in accordance with the norms and found him medically fit to work and the report of the Medical Board as received through the CMS was conveyed to the workman vide letter dated 15/16.01.2001 of the Deputy Personnel Manager, New Majri UG Site Area and aggrieved by the decision of the Medical Board, the workman applied for his examination by the Appellate Medical Board, the highest authority provided under NCWA and the workman was advised to appear before the Appellate Medical Board on 20.09.2001 and the Appellate Board examined five cases including the case of the workman and the assessment of the Appellate Medical Board was also that the workman was fit and each member of the Board signed the report and the decision was communicated to the workman vide letter dated 06.12.2001 and in the meanwhile, the workman was waiting for the result of the examination of the Appellate Medical Board, at the instance of the Shri GVR Suresh, the Jt. General Secretary of the union obtained a medical certificate from a private doctor of Chandrapur town certifying that the workman was unfit for doing any responsible job like a carpenter and the said certificate was obviously manipulated with motivated purpose and the said certificate is not admissible in its scheme particularly for the purpose of medical unfitness under the provisions of 9.4.0 of NCWA and when this provision was observed from records that he was not suffering from any disease of a permanent nature and when he was fit for receiving the benefit of the provisions of the NCWA VI, he made complaint of his ill health due to other reason as mentioned above and not for suffering from permanent disability and to get the benefit of 9.4.0 of NCWA, there should be loss of employment, but the workman never lost his employment for illness and he worked till the date of his superannuation and received wages till the last day of his employment and there was no certification of his unfitness by any authority of WCL and therefore, the workman was not entitled for the benefit of clause 9.4.0 of NCWA and the workman approached the management for his medical unfitness hardly one and half year prior to the date of his retirement.

retirement to make out a case for providing compassionate to his son and the workman is not entitled to any relief.

4. It is necessary to mention here that during the pendency of the reference, workman, Sandemani Komarayya died and the four sons of the deceased workman, namely, Sandemani Ramesh, Sandemani Ravinder, Sandemani Srinivas and Sandemani Satish filed an application for their substitution in place of their deceased father being his legal representative and the said application was allowed on 29.11.2013 and they were substituted as the legal heirs of the deceased workman.

5. Besides placing reliance on documentary evidence, both the parties have led oral evidence in support of their respective stands. Two witnesses, namely, Lingaswami Ambineni and Polam Rajam have been examined on behalf the petitioner. One Shailendra Shende, a Senior Manager (Personnel) has been examined as the only witness on behalf of the party no.1. The respective examination-in-chief of all the witnesses is on affidavit.

6. The two witnesses examined on behalf at the petitioner have stated that in the first week of July, 2000, the workman suffered from paralysis as a result of which, he was not able to attend his duty and he was granted half pay leave for some days and Ravinder, the son of the workman was bringing him daily to the Time office on cycle to have his attendance marked and after marking of the attendance, Ravinder was taking the workman back to his house and the management paid full salary to the workman till December, 2001 after marking his attendance only.

The first witness for the petitioner in his cross-examination has stated that the workman retired on 31.12.2001 on superannuation after reaching the age of 60 years and the workman was declared fit for resume duty on 28.12.2000 and on the application of the workman, he was sent for his medical examination by the management to the medical board on 30.12.2000 and the workman appeared before the medical board and was declared fit for duty by the Medical Board and after the workman was declared medically fit, he was coming to the colliery and his attendance was being marked and he was paid regular wages till the date of his retirement and the workman was also examined by the Appellate Medical Board on 20.09.2001 and the Appellate Medical Board also declared him fit.

The second witness for the petitioner has also stated that the workman retired from service on 31.12.2001 on superannuation after attaining the age of 60 years and he was paid regular wages by the management till the date of his retirement.

7. The evidence of the witness for the party No.1 is in the line of the stands taken by the party No.1 in its written statement. This witness has also proved the documents

relating to the medical examinations and retirement of the workman as Exts. M-II to M-IX.

In his cross-examination, this witness has stated that he cannot say who were the members of the Appellate Medical Board, who had examined the workman on 20.09.2001 and he cannot say if at the time of the examination of the workman by the Appellate Medical Board, all the members of the said Board were present or not and the result of the examination of the Appellate Medical Board was communicated to the workman on 06.12.2001.

8. At the time of argument, it was submitted by the Union representative that in view of the schedule of reference, the issues required to be considered are as to whether the action of the party No.1 in declaring the workman fit for duty, even though he was suffering from the disease of Paralysis and denying employment to the dependent of the workman, in view of the provisions of clause 9.4.0 of the NCWA-VI is fair and justified and it is not disputed by the party No.1 that the workman suffered from Paralysis during the period of his service and he was granted special half pay leave for the same, under clause 6.4.2 of the NCWA-VI and suffering of the workman from paralysis was diagnosed by the physician of WCL hospital and the workman was also sent for C.T. Scan by the said physician and special leave was granted to the workman on the recommendation of the said physician, but subsequently, the workman was declared fit by the same physician, without referring the workman for C.T. Scan test and such declaration was unjustified and unfair and even though, the workman was illegally declared fit, he did not perform the work of a carpenter from the date of declaring him fit till the date of his retirement on 31.12.2001 and the workman was also examined by the Medical Board on 30.12.2000, as he submitted an application to declare him unfit and to give employment to his dependent and in the medical examination report submitted by the Medical Board, it has been mentioned that the workman is in the process of recovery and advised to carry out the physiotherapy, which clearly indicates that the workman was still suffering from paralysis and he was not fully recovered from the same and the workman was not freshly subjected to C.T. Scan test on 30.12.2000 by the Medical Board to arrive at a reasonable decision and as such, the report submitted by the Medical Board declaring the workman fit was totally unfair and unjustified and the workman filled an appeal on 10.01.2001 before the Appellate Medical board and demanded for his examination by such Appellate Medical Board and he was directed to appear before the Appellate Medical Board on 20.09.2001 and the Appellate Medical Board also declared the workman fit after examining him on 20.09.2001, but there was abnormal delay in communicating the decision of the Appellate Medical Board and the same communicated to the workman

only on 06.12.2001 and the abnormal delay of about 3 months to convey the decision of the Appellate Medical Board to the workman has not been explained by the management before this Tribunal and on 20.09.2001, except the Executive Director (Medical Services) who examined the workman, none of the other members of the Appellate Medical Board were present and the workman was not subjected to C.T. scan test and no report assigning reasons for declaring the workman fit was prepared by the Appellate Medical Board and some of the members of the said Board were on leave on 20.09.2001 and the other members have signed the report later on without putting any date and such report smacks of ill motive on the part of the other members of the Appellate Medical Board to grant justice to the workman and as the Appellate Medical Board did not subject the workman for C.T. scan, the workman voluntarily got himself examined by a neuro-physician of Nagpur, Dr. Jayant Pande and the workman was sent for radiological test and he was granted a certificate declaring of his still suffering from paralysis in left hand and left leg and that he cannot recover from the disease of paralysis and the said certificate together with the radiology report was submitted to the members of the Appellate Medical Board by the workman subsequent to 20.09.2001, but still then, the workman was not re-examined by the Appellate Medical Board and the decision of the Appellate Medical Board was illegal and unjustified and the action of party no.1 in not declaring the workman medically unfit is illegal and unjustified and the dependent of the workman is entitled for employment as per the provisions of clause 9.4.0 of NCWA-VI, by declaring the workman unfit with effect from 20.09.2001 or from 06.12.2001.

9. Per contra, it was submitted by the representative for the management that the workman got his normal retirement from service after reaching the age of superannuation on 31.12.2001 as per the Rules of the company and as the workman served the company till last day of his retirement, the question of giving employment to his dependant under clause 9.4.0 of NCWA does not arise and the very term of reference being far from the real issue involved is not legally tenable and under clause 9.4.0 of NCWA, employment to one dependent of the employee, who became permanently disabled arising from injury or disease resulting into loss of employment and certified by the Coal Company concerned can be given, but in this case, the workman was not declared medically unfit and served the company till the last date of his superannuation and for that his dependent of workman the reference is liable to be answered in the negative and against the workman.

10. For better appreciation, I think it necessary to mention the necessary sub-clauses of clause 9.4.0 of the NCWA-VI, before delving into the merit of the case. Clause 9.4.0 of NCWA-VI reads as follows:-

(i) The disablement of the worker concerned should arise from injury or disease, be of a permanent nature resulting into loss of employment and it should be so certified by the Coal Company concerned.

(ii) In case of disablement arising out of general physical debility so certified by the Coal Company, the employee concerned will be eligible for the benefit under this clause if he/she is up to the age of 58 years. The term 'general physical debility' would mean deficiency of a workman due to any disease or other health reason leading to his/her duties regularly or efficiently.

(iii)

(iv)

It is clear from the provision of clause 9.4.0 of NCWA-VI that to get the benefit of employment by the dependent of a worker, it is necessary to show that the worker became disabled from injury or disease of a permanent nature resulting into loss of employment and to be certified by the Coal Company concerned. It is also clear from the provisions of clause 9.4.0 (ii) that in case of disablement arising out of general physical debility so certified by the Coal Company, the employee concerned will be eligible for the benefit under this clause if he/she is up to the age of 58 years and the term "general physical debility" would mean deficiency of a workman due to any disease or other health reason leading to his/her duties regularly and/or efficiently.

11. Keeping in mind the provisions of clause 9.4.0 of NCWA-VI, now, the present case in hand is to be considered.

It is the own case of the workman that he suffered a paralysis attack in his right side body on 06.07.2000 and due to such attack, his right hand and right leg were paralysed and he became disabled. It is also the admitted case that the workman retired from service on attaining the age of 60 years on superannuation on 31.12.2001. So, the workman was more than 58 years of age on 06.07.2000, when he suffered from general physical disability as per his own claim. So, as per clause 9.4.0 (ii) of NCWA-VI the workman was not entitled for the benefit of the provision of clause 9.4.0 of the NCWA-VI.

12. It is also the admitted case that the workman was declared fit by the medical officer, Medical Board and also, the Appellate Medical Board of the party no.1. The workman was never declared unfit to work by the party no.1. The workman was never declared to be permanently disabled by the coal company concerned and there was also no loss of employment of the workman, as it was an admitted case that the workman retired from service on 31.12.2001 on superannuation and he was paid his salary fully by party no.1 till the date of his retirement. So,

provisions of clause 9.4.0(i) of NCWA-VI are also not applicable to the case of the workman.

In view of the findings as given above, submission made by the union that the reports submitted by the Medical officer, Medical Board and Appellate Medical Board declaring the workman "fit" even though he was laterally unfit of work were illegal and unjustified does not deserved consideration. Hence, it is ordered:-

ORDER

The demand of the RKKMS from the management of M/s. Western Coalfields Limited, Nagpur (Maharashtra) for giving employment under clause 9.4.0 of the National Coal Wage Agreement-VI to the dependent of Shri Sandemani Komarayya S/o Yellaya, Ex-Carpenter, New Majri Colliery No. 3 after declaring the workman medically unfit for continued employment is illegal and unjustified. The workman or his legal heirs are not entitled to any relief.

J. P. CHAND, Presiding Officer

नई दिल्ली, 5 नवम्बर, 2014

का.आ. 2894.—औद्योगिक विवाद अधिनियम, 1947 (1947 वि. 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डब्ल्यू. सी. एल. ए प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अन्यथा में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, नागपुर के पंचाट (संदर्भ संख्या 02/2012) ने प्रकाशित करती है, जो केन्द्रीय सरकार को 05/11/2014 को प्राप्त हुआ था।

[सं. एल-22013/01/2014--आईआर (सी-II)]

बौ. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 5th November, 2014

S.O. 2894.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central government hereby publishes the Award (I.D. No. 02/2012) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the WCL and their workmen, which was received by the Central Government on 05/11/2014.

[No. L-22013/1/2014-IR(C-II)]

B. M. PATNAIK, Desk Officer

ANNEXURE

**BEFORE SHRI J. P. CHAND, PRESIDING OFFICER,
CGIT-CUM-LABOUR COURT, NAGPUR**

CGIT / NGP / Application No. 02/2012

Date: 25.09.2014.

Applicant : Subhash S/o Ramchandraji Dhanfule, A workman of Kolar Pimpri Opencast Mine, Western Coalfields Limited, P.O. Bhallar, Tahsil Wani, Distt. Yavatmal, Maharashtra (Represented through the Joint Secretary, RKKMS (INTUC) Union, Nagpur.

Versus

Respondents : (1) The Employer in relation to the Management of Western Coalfields Ltd., Kolar Pimpri Sub Area at Pimpri, P.O. Bhallar, Tahsil Wani Distt. Yavatmal, Through its Sub Area Manager.

(2) The Employer in relation to the Management of Western Coalfields Ltd., Kolar Pimpri Opencast Mine at Pimpri, P.O. Bhallar, Tahsil Wani Distt. Yavatmal, Through its Superintendent of Mines/Colliery Manager.

AWARD

(Dated: 25th September, 2014)

1. This is an application filed by the applicant, Shri Subhash Ramchandraji Dhanfule ("the applicant" in short) through the union, "Rashtriya Koyla Khadan Mazdoor Sangh" ("the union" in short), under Section 33-A of the Industrial Disputes Act, 1947 ("the Act" in short) read with rule 59 of the Industrial Disputes (central) Rules, 1957 ("the Rules" in short) against, Western Coalfields Limited, represented by the Sub Area Manager, Kolar Pimpri Sub Area and Superintendent of Mines/ Colliery Manager, Kolar Pimpri Opencast Mine, Pimpri, the respondents No.1 and 2 respectively, to quash the order dated 30.06.2012 passed by the respondents.

2. The case of the applicant as presented in the application is that he has been in employment of the Western Coalfields Limited ("WCL" in short), since 1981 and has been rendering his services ably and efficiently from the date of his appointment and he has been working under respondent No.2, since 06.05.1994 and he was promoted as Shovel Operator in Excavation Category "A", with the scale of pay and allowances prescribed under the National Coal Wages Agreement ("the NCWA" in short), for the said post and he was given service linked up-gradation to Excavation Category Special Grade, w.e.f 01.01.2003, on completion of eight years of service in category "A" and as he was not promoted to the higher post within the said eight years and he was granted one service linked increment w.e.f. 01.01.2011 and such

increment under the NCWA is being granted to the employees who are being placed in highest category and could not get promotion further for want of any further career growth scheme and in Excavation Category, "Special grade" is the highest grade and inspite of such up-gradation and increment, his designation remained as shovel operator without any change and on 28.05.1996, he was authorized to work as Pit Supervisor in Kolar Pimpri opencast mine and he has been performing the job of Pit Supervisor under the respondent No.2 from 28.05.1996 and the management of WCL, Nagpur had signed a settlement under section 18(2) of the Act with the union on 02.11.1992 and in the said settlement, it was agreed by WCL to regularize the services of employees, in case of engagement of the employees for 240 days in a calendar year in a post, irrespective of the availability of the sanctioned post.

The further case of the applicant is that he is a regular member of the union and as he had put in more than 240 days of attendance as Pit Supervisor, the union raised a demand on his behalf to regularize him as Pit Supervisor w.e.f. 01.01.1997, but management of WCL did not agree for the same and as such, the union raised an industrial dispute before the Conciliation Officer-cum-Assistant Labour Commissioner (Central), Chandrapur and on failure of the conciliation, the conciliation officer submitted the failure report to the Central Government and the Central Government referred the industrial dispute to this Tribunal for adjudication and on the basis of the reference, Reference case No. CGIT/NGP/8/2009 was registered by this Tribunal and the statement of claim and documents were filed in the said case on his behalf on 05.12.2011, as per the direction of the Tribunal and inspite of notice, the management did not appear in the said reference in time and the representative of the management appeared in the said case only on 26.06.2012 and collected the copies of the statement of claim and documents and then, the respondent No.1 directed the respondent No.2 to issue office order directing him (applicant) to work as Hydraulic Excavation Operator (shovel operator) in relay/shift "A", w.e.f. 04.07.2012 and the order was issued on 30.06.2012 and the order dated 30.06.2012 was the outcome of the ill motives of the respondents and the said order revealed that he was not being engaged by respondent No.2 as shovel operator and with a malafide intention, he was directed by respondent No.2 to work as a shovel operator and such order was only to show in the case, CGIT/NGP/8/2009 that he has not been working as a Pit Supervisor, but working as a shovel/Excavator Operator and the order dated 30.06.2012 was in contravention of section 33 of the Act, in view of the pendency of the case, CGIT/NGP/8/2009 and on receipt of the order dated 30.06.2012, he raised objection before the respondent No.2 on 01.07.2012, pointing out that his service conditions cannot be changed

during the pendency of the complaint for his regularization as Pit Supervisor before the CGIT and the said objection was received by the respondent on 03.07.2012 and the action of the respondents in directing him to work as a shovel operator, instead of as a Pit Supervisor, without obtaining specific permission from the court of CGIT amounted to contravention of section 33 of the Act and as such, it is necessary to set aside the order and to allow him to work as Pit Supervisor.

The applicant has further pleaded that the respondent No.2 has been issuing letters to him from 06.07.2012 stating therein that he had been marked on the basis of "no work no pay" on the ground that in spite of the direction of the authorities, he did not work as excavator/shovel operator, even though he reported for duty on 05.07.2012, 06.07.2012, 07.07.2012, 08.07.2012 and 10.07.2012 and such orders of respondent No.2 are illegal and denial of payment of wages for those days to him is illegal and unlawful.

Prayer has been made to quash and set aside the order dated 30.06.2012 and other necessary orders.

3. Both the respondents have filed a joint reply to the application, denying all the adverse allegations and pleading inter alia that there was never any violation of section 33 of the Act by them and reference No. CGIT/NGP/8/2009 was made by the Government, vide order dated 18.02.2009 and at the relevant time, the applicant was designated as shovel operator and was paid wages of shovel operator and it was obvious that he was working as a shovel operator and was drawing wages of shovel operator and they had not brought about any change in his status/service conditions immediately preceding the date of reference and vide order dated 30.06.2012, the applicant was instructed to work in relay "A" with no change in his working status and the applicant in his application dated 15.07.2012 submitted to the Manager had mentioned his designation as shovel operator and there is no service condition that a workman will work always in a particular shift and the deployment of the employees in different shifts depending on the need is the prerogative of the management and in order to have proper utilization of man power and in the interest of production, there has to be flexibility in accordance with para 8 of the certified standing order and at the relevant time, there was shortage of shovel operator, a highly skilled job, in relay "A" and as such, it was necessary to direct the applicant to work in relay "A" and changing of his shift did not amount to change of service condition and reference case CGIT/NGP/8/2009 was about regularization of the applicant as Pit Supervisor and not about his placement in a particular shift and therefore, the office order dated 30.06.2012 in no way amounted to change of service condition and the claim for regularization in the relevant reference was w.e.f.

01.01.1997 and therefore, the situation prevailing prior to 01.01.1997 has to be taken into account for deciding the claim and the office order dated 30.06.2012 would not affect the merit of the claim of the applicant adversely and application of settlement dated 02.11.1992 to the claim of the applicant is subject to interpretation and the question of payment to an employee, who did not work though remained present is subject matter of industrial dispute and does not fall under section 33 of the Act and hence not entertainable under the instant application and the applicant was not a pit supervisor nor there was such post and as such, the question of preventing him from working as pit supervisor does not arise and the applicant is not entitled to any relief.

4. In support of their respective claims, both the parties have placed reliance on documentary evidence. Besides the documentary evidence, three witnesses including the applicant have been examined by the union. No oral evidence has been adduced by the respondents.

The examination-in-chief of the three witnesses, namely, Shri Gajanan N. Pidurkar, Shri Prakash R. Musle and the applicant, Shri Subhash R. Dhanfule is on affidavit.

In their evidence, witnesses, Shri Pidurkar and Shri Musle have stated that the applicant was working as a pit supervisor for the last ten years at Kolar Pimpri Opencast Colliery and they were informed by the applicant that he was duly authorized in writing to work as the pit supervisor by the Superintendent of Mines of Kolar Pimpri and as he protested against the order of the Superintendent of Mines to work as shovel operator, a charge sheet dated 14.07.2012 was submitted against him and he was suspended from service.

In their cross-examination" the said witnesses have stated that they cannot say the initial date of appointment of the applicant and to which post he was appointed and they cannot say in what post the workman was working before he was appointed as shovel operator and they have not seen any office order or appointment order directing the applicant to work as pit supervisor. They have also admitted that the management had ordered directing the applicant to operate PC machine/ shovel, but the applicant did not obey the directions of the management and denied to operate the PC machine/shovel and works in colliery are being done in three shifts and one mining engineer/under manager.remains in charge of each shift to direct and supervise the engagement of shovels, dumpers and other machineries and the engagement of the applicant was in the general shift and the workman was working as per the direction of the shift in charge. The witness No.1 has further stated that there was a pit supervisor duly appointed by the management for the general shift, but he does not remember his name. The witness No.2 has stated that he cannot say if there was a pit supervisor duly appointed by the management in the general shift.

5. In his evidence on affidavit, the applicant has reiterated the facts mentioned in the application. However, in his cross-examination, the applicant has categorically admitted that he was never appointed as a pit supervisor. He has stated that he was authorized by Shri Laghore, the mine Manager of Kolar Pimpri Colliery to act as pit supervisor and he was working in general shift and Ravindra Pal Singh was the pit supervisor of the general shift in which he was working. The applicant has further admitted that verbally he was directed to operate the shovel/P.C. machine. He has admitted the suggestions that he did not obey the direction of the management and denied to operate the shovel/ P.C. machine and for disobedience of orders, management suspended him and Ext. W-IV is a document filed by him having the heading, "Bio-data of shovel operator excavation, Category "A" to shovel operator Excavation, category "special", Wani North Area, 2008-09" and at the time of the DPC held in 2008-09, his designation was shovel operator, category "A".

The applicant has further admitted that Mr. Laghore was transferred on 05.05.1997 and after the transfer of Mr. Laghore, six managers had been posted one after the other at Kolar Pimpri Opencast Mine and the managers posted subsequent to Mr. Laghore did not give any authorization in writing in his favour to act as pit supervisor and in the attendance register, pay slips and all other registers of the company, his designation has been mentioned as shovel operator and he has no idea if the post of pit supervisor had been abolished since long and he was given service linked up-gradation to special category w.e.f. 01.01.2012 vide order dated 22.12.2012 and he did not object for such up-gradation and he did not receive the order dated 30.06.2012.

6. In his argument, the union representative has reiterated the facts mentioned in the application.

It is to be mentioned here that on the date fixed for argument, the respondents did not appear and as such, no argument was advanced on behalf of the respondents.

7. As this is an application under section 33-A of the Act, for contravention of the provisions of section 33 (1) of the Act, for better appreciation of the matter, I think it proper to mention the provision of section 33(1) of the Act.

33. Conditions of service, etc., to remain unchanged under certain circumstances during pendency of proceedings.

- (1) During the pendency of any conciliation proceeding before a conciliation officer or a Board or of any proceeding before (an arbitrator or) a Labour Court or Tribunal or National Tribunal in respect of an industrial dispute, no employee shall—

- (a) in regard to any matter connected with the dispute, alter, to the prejudice of the workman concerned in such dispute, the conditions of service applicable to them immediately before the commencement of such proceeding; or
- (b) for any misconduct connect with the dispute, discharge or punish, whether by dismissal or otherwise, any workman concerned in such dispute,

Save with the express permission in writing of the authority before which the proceeding is pending.

8. In this case, it is the admitted case of the parties that during the pendency of reference case No. CGIT/NGP/8/2009 before this Tribunal, regarding the regularisation of the applicant as pit supervisor, order dated 30.06.2012 was passed by the respondents directing the applicant to work in relay "A" of Kolar Pimpri Opencast Mine as shovel/PC operator.

According to the applicant, he was working as pit supervisor under the respondent No. 2, Superintendent of Mines/Colliery Manager of Kolar Pimpri Opencast Mine, being authorized by him and after receipt of the copy of the statement of claim and copies of documents filed by him in case No. CGIT/NGP/8/2009, the respondents in contravention of Section 33 of the Act, changed his service condition by passing the order dated 30.06.2012 and directing him to work as shovel/PC operator, instead of pit supervisor. The respondents have denied the claim of the applicant of his working as pit supervisor. According to the respondents, the applicant was working as shovel/PC operator and he was simply asked to work in relay "A" instead of the general shift, by order dated 30.06.2012 and the same cannot be said to be change of any service condition.

9. Perused the record including the evidence, both oral and documentary produced by the parties. Considered the submissions made by the Union representative.

So far the documentary evidence is concerned; admittedly all the documents including Ext. W-IV (filed by the applicant himself) show that the workman was designated as shovel operator and he was being paid wages as shovel operator and he accepted the same without any objection. In his application at paragraph 4 also, the applicant has categorically mentioned about his up-gradation as special grade in the Excavation Category w.e.f. 01.01.2003 and grant of service linked increment w.e.f. 01.01.2011 and he accepted the same. No document has been filed in this case to show that the applicant was authorized to work as a Pit Supervisor. The documentary evidence on record do not support the claim of the workman that he was working as a Pit Supervisor w.e.f. 28.05.1996.

10. So far the oral evidence is concerned, as already mentioned above, the same demolishes the claim of the

applicant. The applicant himself has admitted that Ram Pal Singh was the Pit Supervisor of the general shift which shift he was working. The witness No.1 has stated that there was a Pit Supervisor in the general shift duly appointed by the management. Witness No. 2 has stated that he cannot say as to whether there was a Pit Supervisor in the general shift or not. The oral evidence is of no avail to the applicant to prove that he was working as a Pit Supervisor.

The evidence on record shows that the applicant was working as a shovel/P.C. operator and not as a Pit Supervisor.

More ever, on perusal of the impugned order dated 30.06.2012, it is found that by the said order, the workman was directed to work in relay "A" instead of the general shift. In the said order also, the designation of the workman was mentioned as shovel/P.C. operator. Nothing has been mentioned in the said order that the applicant was working as Pit Supervisor and he was directed to work as shovel/PC operator instead of Pit Supervisor. Order dated 30.06.2012, directing the applicant to work in relay "A" instead of the general shift cannot be said to be change of any service condition of the applicant in violation of provisions of Section 33 of the Act and as such, the application under Section 33 A of the Act is not maintainable. Hence, it is ordered:-

ORDER

The application filed by the Union on behalf of the applicant, Subhash R. Dhanfule is rejected being devoid of merit. The applicant is not entitled to any relief.

J. P. CHAND, Presiding Officer

नई दिल्ली, 7 नवम्बर, 2014

का.आ. 2895.—औद्योगिक विवाद अधिनियम, 1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार द्वारा एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मचारी अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार द्वारा अधिकरण एवं श्रम न्यायालय नं.-1, धनबाद के पंचाट (संख्या 76/1992) को प्रकाशित करती है जो केन्द्रीय सरकार द्वारा 17 को प्राप्त हुआ था।

[सं. एल-20012/239/1991-आर्डर]

एम. के. सिंह, अमुमा

New Delhi, the 7th November, 2014

S.O. 2895.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 2014) of the Central Government Industrial Tribunal, Court No.-1, Dhanbad as shown in the Annexure to the Industrial Dispute between the management

M/s. BCCL, and their workmen, received by the Central Government on 7/11/2014.

[No. L-20012/239/1991-IR(C-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT

INDUSTRIAL TRIBUNAL NO.1, DHANBAD

Reference: No. 76/1992

In the matter of reference U/S 10 (1) (d) (2A) of
I.D. Act, 1947

Employer in relation to the management of Basdeopur
Colliery of M/s. BCCL,

AND

Their workmen.

Present: Sri R. K. SARAN, Presiding Officer.

Appearances:

For the Employers : None

For the workman. : None

State : Jharkhand Industry : Coal

Dated: 9/10/2014

AWARD

By order No. L-20012/239/ 1991-IR (C-I) dated 6/08/1992, the Central Government in the Ministry of labour has, in exercise of the powers conferred by clause (i) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

"Whether the demand of National Coal Workers Congress for treating S/Shri Kusundar Kumar Gupta, Libindar Kumar Gupta, Raj Kumar Gupta, Gulab Chand Yadav and Anil Kumar Ram as departmental worker of Basdeopur Colliery and placing them in proper grade as laid down in NCWA is justified ? If so, to what relief these workmen are entitled ?"

After receipt of the reference, both parties are noticed. But appearing for certain dates none appears subsequently. Case remain pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R. K. SARAN, Presiding Officer

नई दिल्ली, 7 नवम्बर, 2014

प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकारण एवं श्रम न्यायालय नं.-1, धनबाद के पंचाट (संदर्भ संख्या 214/2001) को प्रकाशित करती है जो केन्द्रीय सरकार को 07/11/2014 को प्राप्त हुआ था।

[सं. एल-20012/331/2001-आईआर (सी-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 7th November, 2014

S.O. 2896.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 214/2001) of the Central Government Industrial Tribunal-cum-Labour Court No.-1, Dhanbad as shown in the Annexure in the Industrial Dispute between the management of the M/s. CCL, and their workmen, received by the Central Government on 7/11/2014.

[No. L-20012/331/2001-IR(C-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO.1), DHANBAD.

IN THE MATTER OF A REFERENCE U/S 10(1)(D).(2A) OF
I.D.ACT,1947.

Ref. No. 214 of 2001

Employers in relation to the management of Kathara
Colliery M/s. CCL

AND.

Their workmen.

Present: Sri RANJAN KUMAR SARAN, Presiding officer

Appearances:

For the Employers. : Sri D.K. Verma,
Advocate

For the workman. : Sri D. Mukherjee,
Advocate

State : Jharkhand Industry : Coal

Dated 25/09/2014

AWARD

By Order No.L-20012/331/2001-IR (C-I), dated 21/09/2001, the Central Government in the Ministry of labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub -section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

का.आ. 2896.—औद्योगिक विवाद अधिनियम, 1947 (1947 की धारा 17 के अनुसरण में केन्द्रीय सरकार सी. सी. एल. के

"Whether the refusal by the management of BCCL, Kathara Colliery to give advance increment to Shri Iftekhar Ahmad and Shri Suraj Lal Turi for attaining proficiency in Hindi is justified? If not to what relief the workmen entitled and from what date?"

2. The case is received from the Ministry of Labour on 01.11.2001. The workman files their written statement on 15.09.2005. The management files written statement on 28.4.2010. Thereafter rejoinder and document filed by the parties. The workman's document marked as W-1 to W-4. one witness examined on behalf of the workman as WW-1.

3. The short point involved in the case is as to whether the workmen who have passed sahitya Alankar which is equivalent B.A is entitled to one advance increment or not.

4. This Preliminary point that raised the workman who are working admittedly in CCL have been shown as workman of BCCL in the schedule of reference. Though the management raised preliminary objection, the workman did not bring corrigendum of the schedules of reference,

5. The law is very much clear that Tribunal will not go beyond the reference, in any case.

6. That being the situation , This Tribunal can not go beyond the reference. Moreover Sahitya Alankar degree is equivalent to B.A degree, there is no Government or university notification.

7. Therefore this Tribunal is not in a position to give any relief to the workman.

This is my award

R. K. SARAN, Presiding officer

नई दिल्ली, 7 नवंबर, 2014

का.आ. 2897.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बी. सी. सी. एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय नं.-1, धनबाद के पंचाट (संदर्भ संख्या 67/1992) को प्रकाशित करती है जो केन्द्रीय सरकार को 07/11/2014 को प्राप्त हुआ था।

[सं. एल-20012/237/1991-आईआर (सी-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 7th November, 2014

S.O. 2897.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 67/1992) of the Central Government Industrial Tribunal-cum-Labour

Court No.-1, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the M/s. BCCL and their workmen, which was received by the Central Government on 7/11/2014.

[No. L-20012/237/1991-IR(C-1)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD

Reference: No. 67/1992

In the matter of reference U/S 10 (1) (d) (2A) of
I.D. Act, 1947

Employer in relation to the management of Kendua...
Colliery of M/S BCCL

AND

Their workmen.

Present: Sri R. K. SARAN, Presid...g Officer.

Appearances:

For the Employers : None

For the workman. : None

State : Jharkhand. Industry : Coal

Dated: 13/10/2014

AWARD

By order No. L-20012/237/ 1991 /IR (C-1)) dated 07/1992, the central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (4) sub-section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

"Whether the demand of Janta Mazdoor Sangh for protection of pay of Shri Akbar Ansari and 20 others who were appointed as Miner/Loader but subsequently converted to time rate job is justified? If so, to what relief they are entitled?"

Annexure

List of workmen

1.	Baswan Harijan	135382	H/ Operator
2.	Dhaneswar Yadab	135385	pump Operator
3.	Ibhmail Mian	135386	do
4.	Rawbewak Saw	135388	do
5.	Naro Barhi	135298	Prop mazdoor

6.	Faudi Singh	135136	Prop Mazdoor
7.	Dewiashi Gorain	135292	do
8.	Kamal Saw	135296	do
9.	Tejan Saw	135299	do
10.	Sohan Saw	135286	do
11.	Ramdeo	135515	do
12.	Rambali Rajbhar	135522	Pump Operator
13.	Lalji Ahir	135582	do
14.	Babulal Saw	135262	H/ Operator
15.	Satish Mahato	135550	Drillmin
16.	Ramdhari Beldar	135374	Stowing Mazdoor
17.	Akbar Ansari	135376	do
18.	Lochan Hariat	135375	do
19.	Birju Mahato	135518	do
20.	Lachho Saw	135231	Dresser
21.	Niranjan Saw	135255	Dresser

2. After receipt of the reference , both parties are noticed. But appearing for certain dates none appears subsequently. Case remain pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R. K. SARAN, Presiding Officer

नई दिल्ली, 7 नवम्बर, 2014

का.आ. 2898.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बी. सी. सी. एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण एवं श्रम न्यायालय नं.-1, धनबाद के पंचाट (संदर्भ संख्या 54/2009) को प्रकाशित करती है जो केन्द्रीय सरकार को 07/11/2014 को प्राप्त हुआ था।

[सं. एल-20012/66/2009-आईआर (सीएम-I)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 7th November, 2014

S.O. 2898.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 54/2009) of the Central Government Industrial Tribunal-cum-Labour Court No.-1, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the M/s. BCCL and their workmen, which was received by the Central Government on 7/11/2014.

[No. L-20012/66/2009-IR(CM-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO.I), DHANBAD.

IN THE MATTER OF A REFERENCE u/s 10(1)(D)(2A)of I.D. Act, 1947

Ref. No. 54 of 2009

Employers in relation to the management of Kusunda
Area M/S BCCL

AND

Their workmen

Present: Sri RANJAN KUMAR SARAN, Presiding officer

Appearances :

For the Employers, : Sri U. N. Lall, Advocate

For the workman. : Sri R. R. Ram, Rep,

State : Jharkhand. Industry : Coal

Dated 26/09/2014

AWARD

By Order No. L 20012/66/2009-IR-(CM-I), dated 12/10/2009, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub -section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

“(i) Whether the action of the management of Kusunda Colliery of M/S BCCL in not regularizing the service of Smt Dehlia Kamin as Security Guard is justified and legal ? (ii) To what relief is the workman concerned entitled ?”

2. The case is received from the Ministry of Labour on 21.10.2009. The Sponsoring Union files their written statement on 19.11.2009. Thereafter the management files their written statement-cum- rejoinder on 15.11.2011.

3. The short point to be decided In the case is whether the workman is to be regularized in the post of security Guard or not.

4. The workman demanded as she has been designated as security guard, she be regularized in the said post. On the other hand it is submitted by the management counsel, to be confirmed as security guard as per scheme , one must be literate but the workman is illiterate and putting her LTI on her deposition.

5. Considering the facts and circumstances of this case, I hold that, since the workman did not have requisite

qualification, she cannot be regularized as security Guard. Hence her claim is refused.

This is my award

R. K. SARAN, Presiding Officer

नई दिल्ली, 7 नवम्बर, 2014

का.आ. 2899.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एस. सी. सी. एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 78/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7/11/2014 को प्राप्त हुआ था।

[सं. एल-22012/77/2013-आईआर (सीएम-II)]

बी. एम. पट्टनायक, डेस्क अधिकारी

New Delhi, the 7th November, 2014

S.O. 2899.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 78/2013) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad now as shown in the Annexure in the Industrial Dispute between the management of the M/s. Singareni Collieries Co. Ltd., and their workmen, received by the Central Government on 7/11/2014.

[No. L-22012/77/2013-IR(CM-II)]

B. M. PATNAIK, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT ATHYDERABAD

Present: Smt. M. VIJAYA LAKSHMI, Presiding Officer

Dated the 21st day of August, 2014

INDUSTRIAL DISPUTE No. 78/2013

Between:

The President,
(Sri Bandari Satyanarayana),
Telengana Trade Union Council,
H. No. 5-295, Indranagar,
Opp. Bus Stand,
Mancherial – 504208.
Adilabad District.

...Petitioner

AND

The General Manager,
M/s. Singareni Collieries
Company Ltd.,
Bellampalli Area,
Goleti Township-504292.
Adilabad District.

...Respondent

Appearances:

For the Petitioner : Party in person

For the Respondent : M/s. P.A. V.V.S. Sarma & Vijaya Laxmi Panguluri, Advocates

AWARD

The Government of India, Ministry of Labour by its order No. L-22012/77/2013-IR(CM-II) dated 8/7/2013 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of M/s. Singareni Collieries Company Ltd., and their workman. The reference is,

SCHEDULE

“Whether the action of the General Manager, M/s. Singareni Collieries Company Ltd., Bellampalli Area, Goleti Township (PO), Adilabad Distt., in terminating the services of Sri Katla Laxminarayana, Ex-Coal Filler, Goleti-I Inc., SCCo Ltd., Bellampalli Area, with effect from 19.7.1999 is justified or not? If not, to what relief the applicant is entitled for?”

The reference is numbered in this Tribunal as I.D. No. 78/2013 and notices were issued to the parties concerned.

2. Case is posted for filing of claim statement and documents.

3. At this stage, Petitioner called absent. Claim statement not filed. No representation. Inspite of giving fair opportunity again and again Petitioner is not making any claim. In the circumstances, taking that Petitioner has no claim to be made, ‘Nil’ Award is passed.

Award is passed accordingly. Transmit.

M. VIJAYA LAKSHMI, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
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NIL

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 7 नवम्बर, 2014

का.आ. 2900.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एस. सी. सी. एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक

अधिकरण एवं श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 80/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7/11/2014 को प्राप्त हुआ था।

[सं. एल-22012/60/2013-आईआर (सीएम-II)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 7th November, 2014

S.O. 2900.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 80/2013) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad now as shown in the Annexure in the Industrial Dispute between the management of M/s. Singareni Collieries Co. Ltd., and their workman, received by the Central Government on 7/11/2014.

[No. L-22012/60/2013-IR(CM-II)]

B. M. PATNAIK, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present: Smt. M. VIJAYA LAKSHMI, Presiding Officer

Dated the 14th day of August, 2014

INDUSTRIAL DISPUTE No. 80/2013

Between :

The President,
(Sri Bandari Satyanarayana),
Telengana Trade Union Council,
H.No. 5-295, Indranagar,
Opp. Bus Stand,
Mancherial – 504208.
Adilabad District.

...Petitioner

AND

The General Manager,
M/s. Singareni Collieries
Company Ltd., Bellampally Area,
Goleti Township-504292.
Adilabad District.

...Respondent

Appearances :

For the Petitioner : Party in person

For the Respondent : M/s. P.A.V.V.S. Sarma & Vijaya Laxmi Panguluri, Advocates

AWARD

The Government of India, Ministry of Labour by its order No. L-22012/60/2013-IR(CM-II) dated 8/7/2013 referred the following dispute under section 10(1)(d) of

the I.D. Act, 1947 for adjudication to this Tribunal between the management of M/s. Singareni Collieries Company Ltd., and their workman. The reference is,

SCHEDULE

“Whether the action of the General Manager, M/s. Singareni Collieries Company Ltd., Bellampalli Area, Goleti Township(PO), Adilabad Distt., in terminating the services of Sri Kannepalli Venkay, Ex-Badli Filler, Goleti-2 Inc., SCCo Ltd., Bellampalli Area, with effect from 20.4.1998 is justified or not? If not, to what relief the applicant is entitled for?”

The reference is numbered in this Tribunal as I.D. No.80/2013 and notices were issued to the parties concerned.

2. Case is posted for filing of claim statement and documents.
3. At this stage, Petitioner called absent. Claim statement not filed. No representation. Inspite of giving fair opportunity again and again Petitioner is not taking interest in appearing before the Tribunal and is not making any claim. In the circumstances, taking that Petitioner got no claim to be made, ‘Nil’ Award is passed.

Award is passed accordingly. Transmit.

M. VIJAYA LAKSHMI, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
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NIL	NIL
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Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 7 नवम्बर, 2014

का.आ. 2901.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसंदर्भ में केन्द्रीय सरकार एस. सी. सी. एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 77/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7/11/2014 को प्राप्त हुआ था।

[सं. एल-22012/78/2013-आईआर (सीएम-II)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 7th November, 2014

S.O. 2901.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 77/2013) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad now as shown in the Annexure in the Industrial Dispute between the management of the M/s. Singareni Collieries Co. Ltd., and their workmen, received by the Central Government on 7/11/2014.

[No. L-22012/78/2013-IR(CM-II)]

B. M. PATNAIK, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present : Smt. M. VIJAYA LAKSHMI, Presiding Officer

Dated the 21st day of August, 2014

INDUSTRIAL DISPUTE No. 77/2013

Between :

The President,
(Sri Bandari Satyanarayana),
Telengana Trade Union Council,
H. No. 5-295, Indranagar,
Opp. Bus Stand,
Mancherial – 504208.
Adilabad District.

...Petitioner

AND

The General Manager,
M/s. Singareni Collieries
Company Ltd., Bellampally Area,
Goleti Township-504292.
Adilabad District.

...Respondent

Appearances :

For the Petitioner : Party in person
For the Respondent : M/s. P.A.V.V.S. Sarma & Vijaya
Laxmi Panguluri, Advocates

AWARD

The Government of India, Ministry of Labour by its Order No. L-22012/78/2013-IR(CM-II) dated 8/7/2013 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of M/s. Singareni Collieries Company Ltd., and their workman. The reference is,

SCHEDULE

"Whether the action of the General Manager, M/s. Singareni Collieries Company Ltd., Bellampally Area,

Goleti Township(PO), Adilabad Distt., in terminating the services of Sri Parvathi Gattaiah, Ex-Coal Filler, Goleti-I Inc., SCCo. Ltd., Bellampally Area, with effect from 21.5.2007 is justified or not? If not, to what relief the applicant is entitled for?"

The reference is numbered in this Tribunal as I.D. No. 77/2013 and notices were issued to the parties concerned.

2. Case is posted for filing of claim statement.

3. At this stage, Petitioner called absent. Claim statement not filed. No representation. Inspite of giving fair opportunity again and again Petitioner is not making any claim. In the circumstances, taking that Petitioner got no claim to be made, 'Nil' Award is passed.

Award is passed accordingly. Transmit.

M. VIJAYA LAKSHMI, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
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NIL	NIL
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Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 7 नवम्बर, 2014

K.A. 2902.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसार में केन्द्रीय सरकार एस. सी. आर. एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के लिए अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार अधिकारण एवं श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ नं. 76/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 07/11/2013 को प्राप्त हुआ था।

[सं. एल-22012/79/2013-आईआर (सीएस-76)]

बी. एम. पटनायक, डेस्क ऑफिसर

New Delhi, the 7th November, 2014

S.O. 2902.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 76/2013) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad now as shown in the Annexure in the Industrial Dispute between the management of M/s. Singareni Collieries Co. Ltd., and their workmen. The reference was received by the Central Government on 7/11/2013.

[No. L-22012/79/2013-IR(CM-II)]

B. M. PATNAIK, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT
HYDERABAD**

Present : Smt. M. VIJAYA LAKSHMI, Presiding Officer

Dated the 14th day of August, 2014

INDUSTRIAL DISPUTE No. 76/2013

Between :

The President,
(Sri Bandari Satyanarayana),
Telengana Trade Union Council,
H. No. 5-295, Indranagar,
Opp. Bus Stand,
Mancherial – 504208.
Adilabad District.

...Petitioner

AND

The General Manager,
M/s. Singareni Collieries
Company Ltd.,
Bellampally Area,
Goleti Township-504292.
Adilabad District.

...Respondent

Appearances :

For the Petitioner : Party in person

For the Respondent : M/s. P.A.V.V.S. Sarma &
Vijaya Laxmi Panguluri,
Advocates

AWARD

The Government of India, Ministry of Labour by its order No. L-22012/79/2013-IR(CM-II) dated 8/7/2013 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of M/s. Singareni Collieries Company Ltd., and their workman. The reference is,

SCHEDULE

"Whether the action of the General Manager, M/s. Singareni Collieries Company Ltd., Bellampalli Area, Goleti Township(PO), Adilabad Distt., in terminating the services of Sri Kalaboina Mondaiah, Ex-Coal Filler, Goleti-I Inc., SCCo Ltd., Bellampalli Area, with effect from 24.7.2000 is justified or not? If not, to what relief the applicant is entitled for?"

The reference is numbered in this Tribunal as I.D. No. 76/2013 and notices were issued to the parties concerned.

2. Case is posted for filing of claim statement and documents.

3. At this stage, Petitioner called absent. Claim statement not filed. No representation. Inspite of giving fair opportunity again and again Petitioner is not taking interest in the proceedings. He is not appearing before the Tribunal and is not making any claim. In the circumstances, taking that Petitioner got no claim to be made, 'Nil' Award is passed.

Award is passed accordingly. Transmit.

M. VIJAYA LAKSHMI, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
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NIL

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 7 नवम्बर, 2014

का.आ. 2903.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एस. सी. सी. एल. के प्रबंधतंत्र के संबंद्ह नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 75/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 07/11/2014 को प्राप्त हुआ था।

[सं. एल-22012/80/2013-आईआर (सीएम-II)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 7th November, 2014

S.O. 2903.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 75/2013) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad now as shown in the Annexure in the Industrial Dispute between the management of M/s. Singareni Collieries Co. Ltd., and their workmen, which was received by the Central Government on 7/11/2014.

[No. L-22012/80/2013-IR(CM-II)]

B. M. PATNAIK, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
AT HYDERABAD**

Present : Smt. M. VIJAYA LAKSHMI, Presiding Officer

Dated the 6th day of August, 2014

INDUSTRIAL DISPUTE No. 75/2013

Between :

The President,
(Sri Bandari Satyanarayana),
Telengana Trade Union Council,
H. No. 5-295, Indranagar,
Opp. Bus Stand,
Mancherial – 504208.
Adilabad District.

...Petitioner

AND

The General Manager,
M/s. Singareni Collieries
Company Ltd.,
Bellampally Area,
Goleti Township-504292.
Adilabad District.

...Respondent

Appearances :

For the Petitioner : Party in person

For the Respondent : M/s. P.A.V.V.S. Sarma &
Vijaya Laxmi Panguluri,
Advocates**AWARD**

The Government of India, Ministry of Labour by its order No. L-22012/80/2013-IR(CM-II) dated 8/7/2013 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of M/s. Singareni Collieries Company Ltd., and their workman. The reference is,

SCHEDULE

"Whether the action of the General Manager, M/s. Singareni Collieries Company Ltd., Bellampalli Area, Goleti Township(PO), Adilabad Distt., in terminating the services of Sri Peddaboina Ramakistu, Ex-Coal Filler, Goleti-I Inc., SCCo Ltd., Bellampalli Area, with effect from 14.3.2002 is justified or not? If not, to what relief the applicant is entitled for?"

The reference is numbered in this Tribunal as I.D. No.75/2013 and notices are issued to the parties concerned.

2. Case is posted for filing of claim statement by Petitioner union.

3. At this stage, Petitioner called absent. Claim statement not filed. No representation. Inspite of giving fair opportunity again and again Petitioner is not taking interest in the proceedings and is not making any claim. In the circumstances, taking that Petitioner got no claim to be made, 'Nil' Award is passed.

Award is passed accordingly. Transmit.

M. VIJAYA LAKSHMI, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL
Documents marked for the Petitioner	NIL
Documents marked for the Respondent	NIL

नई दिल्ली, 7 नवम्बर, 2014

का.आ. 2904.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एस. सी. एल. के प्रबंधतंत्र के संबंध नियोजकों और उनके कर्मकारों के लिए अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 67/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 07/11/2013 को प्राप्त हुआ था।

[सं. एल-22012/46/2013-आईआर (सीएम-II)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 7th November, 2014

S.O. 2904.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 67/2013) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad now as shown in the Annexure in the Industrial Dispute between the management of the M/s. Singareni Collieries Co. Ltd., and their workmen received by the Central Government on 7/11/2014.

[No. L-22012/46/2013-IR(CM-II)]

B. M. PATNAIK, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
AT HYDERABAD**

Present : Smt. M. VIJAYA LAKSHMI, Presiding Officer

Dated the 21st day of August, 2014

INDUSTRIAL DISPUTE No. 67/2013

Between :

The President,
(Sri Bandari Satyanarayana),
Telengana Trade Union Council,
H. No. 5-295, Indranagar,
Opp. Bus Stand,
Mancherial – 504208.
Adilabad District.

...Petitioner

AWARD

The Government of India, Ministry of Labour by its order No. L-22012/49/2013-IR(CM-II) dated 30/5/2013 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of M/s. Singareni Collieries Company Ltd., and their workman. The reference is,

SCHEDULE

"Whether the action of the General Manager, M/s. Singareni Collieries Company Ltd., Ramagundam-I Area, Godavarikhani, Karimnagar Distt., in terminating the services of Sri Uppala Srinivas, Ex-CF, GDK-1 Inc., SCCo Ltd., Ramagundam-I Area, Godavarikhani with effect from 27.2.2000 is justified or not? If not, to what relief the applicant is entitled for?"

The reference is numbered in this Tribunal as I.D. No.64 /2013 and notices were issued to the parties concerned.

2. Case is posted for filing of claim statement and documents.

3. At this stage, Petitioner called absent. Claim statement not filed. No representation. Inspite of giving fair opportunity again and again Petitioner is not making any claim. In the circumstances, taking that Petitioner got no claim to be made, 'Nil' Award is passed.

Award is passed accordingly. Transmit.

M. VIJAYA LAKSHMI, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
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NIL	NIL
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Documents marked for the Petitioner	
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NIL	
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Documents marked for the Respondent	
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NIL	
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नई दिल्ली, 7 नवम्बर, 2014

का.आ. 2906.—आंतर्राष्ट्रीय विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एस. सी. सी. एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 63/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 07/11/2014 को प्राप्त हुआ था।

[सं. एल-22012/47/2013-आईआर (सीएम-II)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 7th November, 2014

S.O. 2906.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 63/2013) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad now as shown in the Annexure in the Industrial Dispute between the management of the M/s. Singareni Collieries Co. Ltd., and their workmen, which was received by the Central Government on 7/11/2014.

[No. L-22012/47/2013-IR(CM-II)]

B. M. PATNAIK, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
AT HYDERABAD**

Present : Smt. M. VIJAYA LAKSHMI, Presiding Officer

Dated the 21st day of August, 2014

INDUSTRIAL DISPUTE No. 63/2013**Between :**

The President,
(Sri Bandari Satyanarayana),
Telengana Trade Union Council,
H. No. 5-295, Indranagar,
Opp. Bus Stand,
Mancherial – 504208.
Adilabad District.

...Petitioner

AND

The General Manager,
M/s. Singareni Collieries
Company Ltd.,
Ramagundam-I Area,
Godavarikhani-505209.
Karimangar District.

...Respondent

Appearances :

For the Petitioner : M/s. S. Bhagavanth Rao and
S.V. Rama Devi, Advocates

For the Respondent : M/s. P.A.V.V.S. Sarma & Vijaya
Laxmi Panguluri, Advocates

AWARD

The Government of India, Ministry of Labour by its order No. L-22012/47/2013-IR(CM-II) dated 30/5/2013 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of M/s. Singareni Collieries Company Ltd., and their workman. The reference is,

SCHEDULE

"Whether the action of the General Manager, M/s. Singareni Collieries Company Ltd., Ramagundam-I Area, Godavarikhani, Karimnagar Distt., in terminating the services of Sri Mamidala Rajamallu, Ex-CF, GDK-6B Inc., SCCo Ltd., Ramagundam-I Area, Godavarikhani with effect from 22.12.1998 is justified or not? If not, to what relief the applicant is entitled for?"

The reference is numbered in this Tribunal as I.D. 0.63/2013 and notices were issued to the parties concerned.

Case is posted for filing of claim statement and documents.

At this stage, Petitioner called absent. Claim statement not filed. No representation. Inspite of giving an opportunity again and again Petitioner is not making any claim. In the circumstances, taking that Petitioner did not claim to be made, 'Nil' Award is passed.

Award is passed accordingly. Transmit.

M. VIJAYA LAKSHMI, Presiding Officer

Appendix of evidence

Citesses examined for the petitioner	Witnesses examined for the Respondent
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NIL	NIL
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Documents marked for the Petitioner	
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NIL	
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Documents marked for the Respondent	
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NIL	
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नई दिल्ली, 7 नवम्बर, 2014

का.आ. 2907.——औद्योगिक विवाद अधिनियम, 1947 (1947-14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एस. सी. सी. व. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच नुवंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 07/11/2014 प्राप्त हुआ था।

[सं. एल-22012/82/2013-आईआर (सीएम-II)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 7th November, 2014

S.O. 2907.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 81/2013) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad now as shown in the Annexure in the

Industrial Dispute between the management of the M/s. Singareni Collieries Co. Ltd., and their workmen, which was received by the Central Government on 7/11/2014.

[No. L-22012/82/2013-IR(C-II)]

B. M. PATNAIK, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
AT HYDERABAD**

Present : Smt. M. VIJAYA LAKSHMI, Presiding Officer

Dated the 21st day of August, 2014

INDUSTRIAL DISPUTE No. 81/2013**Between :**

The President,
(Sri Bandari Satyanarayana),
Telengana Trade Union Council,
H.No. 5-295, Indranagar,
Opp. Bus Stand,
Mancherial – 504208.
Adilabad District.

...Petitioner

AND

The General Manager,
M/s. Singareni Collieries
Company Ltd.,
Bellampally Area,
Goleti Township-504292.
Adilabad District.

...Respondent

Appearances :

For the Petitioner : Party in person

For the Respondent : M/s. P.A.V.V.S. Sarma & Vijaya Laxmi Panguluri, Advocates

AWARD

The Government of India, Ministry of Labour by its order No. L-22012/82/2013-IR(CM-II) dated 8/7/2013 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of M/s. Singareni Collieries Company Ltd., and their workman. The reference is,

SCHEDULE

"Whether the action of the General Manager, M/s. Singareni Collieries Company Ltd., Bellampalli Area, Goleti Township(PO), Adilabad Distt., in terminating the services of Sri Sallagula Koteswar, Ex-Coal Filler, Goleti-I Inc., SCCo Ltd., Bellampalli

Area, with effect from 10.7.2002 is justified or not? If not, to what relief the applicant is entitled for?"

The reference is numbered in this Tribunal as I.D. No.81/2013 and notices were issued to the parties concerned.

2. Case is posted for filing of claim statement and documents.

3. At this stage, Petitioner called absent. Claim statement not filed. No representation. In spite of giving fair opportunity again and again Petitioner is not making any claim. In the circumstances, taking that Petitioner got no claim to be made, 'Nil' Award is passed.

Award is passed accordingly. Transmit.

M. VIJAYA LAKSHMI, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
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NIL	NIL
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Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 7 नवम्बर, 2014

का.आ. 2908.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एस. सी. सी. एल. के प्रबंधतंत्र के संबंद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 92/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 07/11/2014 को प्राप्त हुआ था।

[सं. एल-22012/108/2013-आईआर (सीएम-II)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 7th November, 2014

S.O. 2908.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 92/2013) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad now as shown in the Annexure in the Industrial Dispute between the management of M/s. Singareni Collieries Co. Ltd., and their workmen, was received by the Central Government on 7/11/2014.

[No. L-22012/108/2013-IR(CM-II)]

B. M. PATNAIK, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present : Smt. M. VIJAYA LAKSHMI, Presiding Officer

Dated the 13th day of August, 2014

INDUSTRIAL DISPUTE No. 92/2013

Between :

The President,
(Sri Bandari Satyanarayana)
Telangana Trade Union Council,
H. No.-5-295, Indra Nagar,
Opp. Bus Stand, Mancherial,
Adilabad Dist. – 504208.

...Petitioner

AND

The General Manager,
M/s. Singareni Collieries
Company Limited,
Mandamarri Area,
Mandamarri-504231.

...Respondent

Appearances :

For the Petitioner : None

For the Respondent : None

AWARD

The Government of India, Ministry of Labour by its order No. L-22012/108/2013-IR(CM-II) dated 3.9.2013 referred the following dispute between the management of M/s. Singareni Collieries Company Ltd., and their workman under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal. The reference is,

SCHEDULE

"Whether the action of the management of General Manager of M/s. Singareni Collieries Company Ltd., Mandamarri Area, Mandamarri, Adilabad Distt., in terminating the services of Sri Ramagiri Rajalingaiah, Ex-Coal Filler, MK-4 Inc., SCCo Ltd., Mandamarri Area, with effect from 21.9.2007 is justified or not? If not, to what relief the applicant is entitled for?"

The reference is numbered in this Tribunal as I.D. No. 92/2013 and notices were issued to the parties.

2. The case stands posted for filing of claim statement and documents.

3. Petitioner called absent and there is no representation. In spite of notice being served twice, Petitioner is not present and is not taking interest in the proceedings. In

the circumstances, taking that Petitioner got no claim to be made, 'Nil' award is passed.

Award passed accordingly. Transmit.

M. VIJAYA LAKSHMI, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner Witnesses examined for the Respondent

Petitioner Respondent

NIL NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 7 नवम्बर, 2014

का.आ. 2909.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस. सी. सी. एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 79/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 07/11/2014 को प्राप्त हुआ था।

[सं. एल-22012/61/2013-आईआर (सीएम-II)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 7th November, 2014

S.O. 2909.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 79/2013) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the management of M/s. Singareni Collieries Co. Ltd., and their workmen, received by the Central Government on 7/11/2014.

[No. L-22012/61/2013-IR(CM-II)]

B. M. PATNAIK, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present : Smt. M. VIJAYA LAKSHMI, Presiding Officer

Dated the 21st day of August, 2014

INDUSTRIAL DISPUTE No. 79/2013

Between :

The President,
(Sri Bandari Satyanarayana),
Telengana Trade Union Council,
H. No. 5-295, Indranagar,
Opp. Bus Stand,
Mancherial – 504208.
Adilabad District.

...Petitioner

AND

The General Manager,
M/s. Singareni Collieries
Company Ltd.,
Bellampally Area,
Goleti Township-504292.
Adilabad District.

...Respondent

Appearances :

For the Petitioner	:	Party in person
For the Respondent	:	M/s. P.A.V.V.S. Sarma & Vijaya Laxmi Panguluri, Advocates

AWARD

The Government of India, Ministry of Labour by its order No. L-22012/61/2013-IR(CM-II) dated 8/7/2013 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of M/s. Singareni Collieries Company Ltd., and their workmen. The reference is,

SCHEDULE

"Whether the action of the General Manager, M/s. Singareni Collieries Company Ltd., Bellampalli Area, Goleti Township (PO), Adilabad Distt., in terminating the services of Sri Pathipaka Bapu, Ex-Badli Filler, Goleti-2 Inc., SCCo Ltd., Bellampalli Area, with effect from 22.1.1998 is justified or not? If not, to what relief the applicant is entitled for?"

The reference is numbered in this Tribunal as I.D. No. 79 /2013 and notices were issued to the parties concerned.

2. Case is posted for filing of claim statement and documents.
3. At this stage, Petitioner called absent. Claim statement not filed. No representation. In spite of giving fair opportunity again and again Petitioner is not making any claim. In the circumstances, taking that Petitioner got no claim to be made, 'Nil' Award is passed.

Award is passed accordingly. Transmit.

M. VIJAYA LAKSHMI, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner **Witnesses examined for the Respondent**

NIL **NIL**

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 7 नवम्बर, 2014

का.आ. 2910.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एस. सी. सी. एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 76/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 07/11/2014 को प्राप्त हुआ था।

[सं. एल-22012/121/2012-आईआर (सीएम-II)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 7th November, 2014

S.O. 2910.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 76/2012) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the management of M/s. Singareni Collieries Co. Ltd., and their workmen, received by the Central Government on 7/11/2014.

[No. L-22012/121/2012-IR(CM-II)]

B. M. PATNAIK, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT
HYDERABAD**

Present : Smt. M. VIJAYA LAKSHMI, Presiding Officer

Dated, the 13th day of August, 2014

INDUSTRIAL DISPUTE No. 76/2012

Between :

The General Secretary,
(Bhandari Satyanarayana)
Singareni Telugu Nadu Trade Union
Council (STNTUC)
H.No.5-295, Indiranagar,
Opp. Bus Stand, Mancherial,
Adilabad - 504208.

...Petitioner

AND

The General Manager,
M/s. Singareni Collieries
Company Ltd.,
Bellampalli Area,
Goleti Township,
Adilabad District-504292.

...Respondent

Appearances :

For the Petitioner : Party in person

For the Respondent : M/s. P.A.V.V.S. Sarma & Vijaya
Laxmi Panguluri, Advocates

AWARD

The Government of India, Ministry of Labour by its order No. L-22012/121/2012-IR(CM-II) dated 26.10.2012 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of M/s. Singareni Collieries Company Ltd., and their workman. The reference is,

SCHEDULE

"Whether the action of the Chief General Manager, M/s. Singareni Collieries Company Ltd., Bellampalli Area, Goleti Township, Adilabad Dist., in disempanelling Shri K. Venkataswamy, Ex-Badi Fitter, Goleti-2 Inc., Bellampalli Area with effect from 29.11.1997 is justified or not? To what relief the applicant is entitled for?"

The reference is numbered in this Tribunal as I.D. No. 76/2012 and notices were issued to the parties concerned.

2. Case is posted for filing of claim statement.
3. At this stage, Petitioner called absent. Claim statement not filed. No representation. Inspite of given opportunity again and again Petitioner is not taking interest in the proceedings and is not making any claim. In the circumstances, taking that Petitioner got no claim to be made, 'Nil' Award is passed.

Award is passed accordingly. Transmit.

M. VIJAYA LAKSHMI, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner **Witnesses examined for the Respondent**

NIL **NIL**

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 7 नवम्बर, 2014

का.आ. 2911.—ऑद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एस. सी. सी. एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट ऑद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 77/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 07/11/2014 को प्राप्त हुआ था।

[सं. एल-22012/129/2012-आईआर (सीएम-II)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 7th November, 2014

S.O. 2911.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 77/2012) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the management of the M/s. Singareni Collieries Co. Ltd., and their workmen, received by the Central Government on 7/11/2014.

[No. L-22012/129/2012-IR(CM-II)]

B. M. PATNAIK, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present : Smt. M. VIJAYA LAKSHMI, Presiding Officer

Dated, the 13th day of August, 2014

INDUSTRIAL DISPUTE No. 77/2012

Between :

The General Secretary,
(Bhandari Satyanarayana)

Singareni Telugu Nadu Trade Union
Council (STNTUC)
H.No.5-295, Indiranagar,
Opp. Bus Stand, Mancherial,
Adilabad - 504208.

...Petitioner

AND

The General Manager,
M/s. Singareni Collieries
Company Ltd.,
Bellampalli Area, Goleti Township,
Adilabad District-504292.

...Respondent

Appearances :

For the Petitioner : Party in person

For the Respondent : M/s. P. A. V. V. S. Sarma &
Vijaya Laxmi Panguluri,
Advocates

AWARD

The Government of India, Ministry of Labour by its order No. L-22012/129/2012-IR(CM-II) dated 25.10.2012 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of M/s. Singareni Collieries Company Ltd., and their workman. The reference is,

SCHEDULE

“Whether the action of the Chief General Manager, M/s. Singareni Collieries Company Ltd., Bellampalli Area, Goleti Township, Adilabad Dist., in disempanelling Shri Erugurala Lachaiah, Ex-Coal Filler, Goleti-2 Inc., SCCL, Bellampalli Area with effect from 20.2.1998 is justified or not? To what relief the applicant is entitled for ?”

The reference is numbered in this Tribunal as I.D. No. 77/2012 and notices were issued to the parties concerned.

2. Case is posted for filing of claim statement.
3. At this stage, Petitioner called absent. Claim statement not filed. No representation. Inspite of giving opportunity again and again Petitioner is not taking any interest in the proceedings and is not making any claim. In the circumstances, taking that Petitioner got no claim to be made, ‘Nil’ Award is passed.

Award is passed accordingly. Transmit.

M. VIJAYA LAKSHMI, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
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NIL	NIL
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Documents marked for the Petitioner	
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NIL

Documents marked for the Respondent	
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NIL

नई दिल्ली, 7 नवम्बर, 2014

का.आ. 2912.—ऑद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एस. सी. सी. एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट ऑद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 78/2012) को प्रकाशित करती है जो केन्द्रीय सरकार को 07/11/2014 को प्राप्त हुआ था।

[सं. एल-22012/157/2012-आईआर (सीएम-II)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 7th November, 2014

S.O. 2912.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 78/2012) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the management of M/s. Singareni Collieries Co. Ltd., and their workmen, received by the Central Government on 7/11/2014

[No. L-22012/157/2012-IR(CM-II)]

B. M. PATNAIK, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present : Smt. M. VIJAYA LAKSHMI, Presiding Officer

Dated, the 13th day of August, 2014

INDUSTRIAL DISPUTE No. 78/2012

Between :

The General Secretary,
(Bhandari Satyanarayana)
Singareni Telugu Nadu Trade
Union Council (STNTUC)
H. No. 5-295, Indiranagar,
Opp. Bus Stand, Mancherial,
Adilabad - 504208.Petitioner

AND

The General Manager,
M/s. Singareni Collieries
Company Ltd.,
Bellampalli Area, Goleti Township,
Adilabad District-504292.Respondent

Appearances :

For the Petitioner : Party in person

For the Respondent : M/s. P.A. V. V. S. Sarma & Vijaya
Laxmi Panguluri. Advocates

AWARD

The Government of India, Ministry of Labour by its order No. L-22012/157/2012-IR(CM-II) dated 16.11.2012 referred the following dispute under Section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of M/s. Singareni Collieries Company Ltd., and their workmen. The reference is,

SCHEDULE

“Whether the action of the Chief General Manager, M/s. Singareni Collieries Company Ltd., Bellampally

Area, Goleti Township, Adilabad Dist., in disempanelling Shri Rangu Malliah, Ex-Coal Filler, MKV No.5 Inc., SCCL, Bellampalli Area with effect from 20.9.2000 is justified or not? To what relief the applicant is entitled for ?”

The reference is numbered in this Tribunal as I.D. No. 78/2012 and notices were issued to the parties concerned.

2. Case is posted for filing of claim statement.
3. At this stage, Petitioner called absent. **Claim** statement not filed. No representation. Inspite of giving opportunity again and again Petitioner is not taking **any** interest in the proceedings and is not making any **claim**. In the circumstances, taking that Petitioner got no **claim to** be made, ‘Nil’ Award is passed.

Award is passed accordingly. Transmit.

M. VIJAYA LAKSHMI, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
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NIL	NIL
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Documents marked for the Petitioner	
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NIL

Documents marked for the Respondent	
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NIL

नई दिल्ली, 7 नवम्बर, 2014

का.आ. 2913.—औद्योगिक विवाद अधिनियम, 1947 (14 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एस. सी. सी. एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 81/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 07/11/2014 को दिया गया था।

[सं. एल-22012/34/2012-आईआर (सीएम-II)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 7th November, 2014

S.O. 2913.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 81/2012) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the management of the M/s. Singareni Collieries Co. Ltd., and their workmen, received by the Central Government on 7/11/2014.

[No. L-22012/34/2012-IR(CM-II)]

B. M. PATNAIK, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT
HYDERABAD**

Present : Smt. M. VIJAYA LAKSHMI, Presiding Officer

Dated, the 31st day of July, 2014

INDUSTRIAL DISPUTE No. 81/2012

Between :

The Vice President
(Sri Bandari Lingaiah),
Singareni Miners & Engg.
Workers Union (HMS)
Off. No. 39-T, Somagudem Corner,
Somagudem (Via Bellampally),
Hyderabad Dist. - 504251.Petitioner/Union

AND

The Chief General Manager,
M/s. Singareni Collieries
Company Ltd.,
Mandamarri Area, Mandamarri,
Hyderabad District - 504231.Respondent

Appearances :

For the Petitioner : NIL

For the Respondent : M/s. P.A. V. V. S. Sarma & Vijaya
Laxmi Panguluri, Advocates

AWARD

The Government of India, Ministry of Labour by its Order No. L-22012/34/2012-IR(C-II) dated 26.10.2012 referred the following dispute under Section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of M/s. Singareni Collieries Company Ltd. and their workman. The reference is,

SCHEDULE

"Whether the action of the Chief General Manager, M/s. Singareni Collieries Company Ltd., Mandamarri Area in terminating the services of Sri Disetti Mallesh, Ex-Coal Filler, KK-5 Incline, Mandamarri Area with effect from 21.1.1999 is justified or not? To what relief the applicant is entitled for?"

The reference is numbered in this Tribunal as I.D. No. 81/2012 and notices were issued to the parties concerned.

Case stands posted for filing of Claim Statement and documents by Petitioner.

At this stage, Petitioner called absent. No representation. Claim statement not filed. Inspite of giving fair opportunity again and again Petitioner is not

taking any interest in the proceedings and he has not made any claim. In the circumstances, taking that there is no claim to be made for the Petitioner, 'Nil' Award is passed.

Award is passed accordingly. Transmit.

M. VIJAYA LAKSHMI, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
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NIL	NIL
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Documents marked for the Petitioner	
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NIL	
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Documents marked for the Respondent	
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	NIL
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नई दिल्ली, 7 नवम्बर, 2014

का.आ. 2914.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एस. सो. सी. एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 66/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 07/11/2014 को प्राप्त हुआ था।

[सं. एल-22012/51/2013-आईआर (सीएम-II)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 7th November, 2014

S.O. 2914.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 66/2013) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the management of the M/s. Singareni Collieries Co. Ltd., and their workmen, received by the Central Government on 7/11/2014.

[No. L-22012/51/2013-IR(CM-II)]

B. M. PATNAIK, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT
HYDERABAD**

Present : Smt. M. Vijaya Lakshmi, Presiding Officer

Dated, the 21st day of July, 2014

INDUSTRIAL DISPUTE No. I.D. 66/2013

Between :

The General Secretary
(Sri Riaz Ahmed),

M/s. Singareni Mines & Engg.
Workers Union (HMS),
Qr. No. C-34, Sector-I,
Godavarikhani – 505 209,
Karimnagar District.

...Petitioner

AND

The General Manager,
M/s. Singareni Collieries
Company Limited,
Ramagundam-I Area,
Godavarikhani – 505 209.
Karimnagar Distt.

...Respondent

Appearances :

For the Petitioner : M/s. A. Sarojana & K.
Vasudeva Reddy, Advocate

For the Respondent : Party in Person

AWARD

The Government of India, Ministry of Labour by its order No. L-22012/51/2013-IR(CM-II) dated 30.5.2013 referred the following dispute between the management of M/s. Singareni Collieries Company Ltd., and their workman under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal. The reference is,

SCHEDULE

"Whether the action of the General Manager, M/s. Singareni Collieries Company Ltd., Ramagundam-I Area, Godavarikhani, Karimnagar Distt. In terminating the services of Smt. Chintala Swaroopa Rani, Ex-Staff Nurse, Area Hospital SCCo. Ltd., Ramagundam-I Area, Godavarikhani Area w.e.f. 18.1.2000 is justified or not? If not, to what relief the applicant is entitled for?"

The reference is numbered in this Tribunal as I.D. No. 66/2013 and notices were issued to the parties.

2. The case stands posted for filing of claim statement and documents.

3. At this stage, Petitioner called absent. Claim statement not filed and there is no representation. Inspite of giving sufficient and fair opportunity, Petitioner is not taking interest in making any claim and is not taking any interest in the proceedings. In the circumstances, taking that Petitioner got no claim to be made, 'Nil' award is passed.

Award passed accordingly. Transmit.

M. VIJAYA LAKSHMI, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
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NIL	NIL
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Documents marked for the Petitioner	
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NIL	
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Documents marked for the Respondent	
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NIL	
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नई दिल्ली, 7 नवम्बर, 2014

का.आ. 2915.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एस. सी. आ० एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 55/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 07/11/2014 को प्राप्त हुआ था।

[सं. एल-22012/122/2012-आईआर (सीएम-II)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 7th November, 2014

S.O. 2915.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 55/2012) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the management of M/s. Singareni Collieries Co. Ltd., and their workmen, received by the Central Government on 7/11/2014.

[No. L-22012/122/2012-IR(CM-II)]

B. M. PATNAIK, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT
HYDERABAD**

Present : Smt. M. VIJAYA LAKSHMI, Presiding Officer

Dated the 13th day of August, 2014

INDUSTRIAL DISPUTE No. 55/2012**Between :**

The General Secretary,
(Sri Bandari Satyanarayana),
Singareni Telugu Nadu
Trade Union Council (STNTUC),
H. No. 5-295, Indranagar,
Opp. Bus Stand,
Mancherial – 504208.
Adilabad District

...Petitioner

AND

The General Manager,
M/s. Singareni Collieries
Company Ltd.,
Bellampally Area,
Goleti Township-504292.
Adilabad District.

...Respondent

Appearances :

For the Petitioner : Party in person

For the Respondent : M/s. P.A.V.V.S. Sarma &
Vijaya Laxmi Panguluri,
Advocates**AWARD**

The Government of India, Ministry of Labour by its order No. L-22012/122/2012-IR(CM-II) dated 26/9/2012 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of M/s. Singareni Collieries Company Ltd., and their workman. The reference is,

SCHEDULE

"Whether the action of the Chief General Manager, M/s. Singareni Collieries Company Ltd., Bellampally Area, Goleti Township(PO), Adilabad Distt., in terminating the services of Sri Kampelli Chilakaiah, Ex-Badli Filler, Goleti No.I Inc., of Bellampalli Area, with effect from 20.10.2001 is justified or not? To what relief the applicant is entitled for?"

The reference is numbered in this Tribunal as I.D. No. 55/2012 and notices were issued to the parties concerned.

2. Case is posted for filing of claim statement.
3. At this stage, Petitioner called absent. Claim statement not filed. No representation. Inspite of giving fair opportunity again and again Petitioner is not taking any interest in the proceedings and is not making any claim. In the circumstances, taking that Petitioner got no claim to be made, 'Nil' Award is passed.

Award is passed accordingly. Transmit.

M. VIJAYA LAKSHMI, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner Witnesses examined for the Respondent

NIL

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 7 नवम्बर, 2014

का.आ. 2916.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एस. सी. सी. एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 6/2012) को प्रकाशित करती है जो केन्द्रीय सरकार को 07/11/2014 को प्राप्त हुआ था।

[सं. एल-22012/197/2011-आईआर (सीएम-II)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 7th November, 2014

S.O. 2916.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 6/2012) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the management of the M/s. Singareni Collieries Co. Ltd., RG I Area, and their workman, received by the Central Government on 7/11/2014.

[No. L-22012/197/2011-IR(CM-II)]

B. M. PATNAIK, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT
HYDERABAD**

Present : Smt. M. VIJAYA LAKSHMI, Presiding Officer

Dated the 25th day of August, 2014

INDUSTRIAL DISPUTE No. 6/2012

Between :

Sri Raiz Ahmed,
General Secretary,
Singareni Miners & Engg.
Workers Union (HMS),
Qtr No.C-34, Sector-I,
Godavari Khani,
Karimnagar – 505209.

...Petitioner

AND

The General Manager,
M/s. Singareni Collieries
Company Ltd.,
RG-I Area, Godavari Khani-505209.
Karimnagar District.

...Respondent

Appearances :

For the Petitioner : M/s. A. Sarojana & K. Vasudeva Reddy, Advocates
For the Respondent : M/s. P.A. V. V. S. Sarma & Vijaya Laxmi Panguluri, Advocates

AWARD

The Government of India, Ministry of Labour by its order No. L-22012/197/2011-IR(CM-II) dated 13/12/2011 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of M/s. Singareni Collieries Company Ltd., and their workman. The reference is,

SCHEDULE

"Whether the action of the management of M/s. Singareni Collieries Company Ltd., RG-I Area, Godavarikhani, in not regularizing the services of Sri Madikonda Narsaiah and Sri Vanga Laxmaiah, Gen. Mazdoor as bunker chairman is fair and justified? To what relief the workmen concerned are entitled to?"

The reference is numbered in this Tribunal as I.D. No. 6/2012 and notices were issued to the parties concerned.

2. Case is posted for filing of claim statement.
3. At this stage, Petitioner called absent. Claim statement not filed. No representation. In spite of granting fair opportunity again and again Petitioner is not taking interest in the proceedings. He has not made any claim. In the circumstances, taking that Petitioner got no claim to be made, 'Nil' Award is passed.

Award is passed accordingly. Transmit.

M. VIJAYA LAKSHMI, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
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NIL	NIL
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Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 7 नवम्बर, 2014

का.आ. 2917.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एस. सी. सी.

एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 56/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 07/11/2014 को प्राप्त हुआ था।

[सं. एल-22012/124/2012-आईआर (सीएम-II)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 7th November, 2014

S.O. 2917.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 56/2012) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the M/s. Singareni Collieries Co. Ltd., and their workmen, received by the Central Government on 7/11/2014.

[No. L-22012/124/2012-IR(CM-II)]

B. M. PATNAIK, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT
HYDERABAD**

Present : Smt. M. VIJAYA LAKSHMI, Presiding Officer

Dated the 13th day of August, 2014

INDUSTRIAL DISPUTE No. 56/2012

Between :

The General Secretary,
(Sri Bandari Satyanarayana),
Singareni Telugu Nadu
Trade Union Council (STNTUC),
H. No. 5-295, Indranagar,
Opp. Bus Stand,
Mancherial – 504208
Adilabad District

...Petitioner

AND

The General Manager,
M/s. Singareni Collieries
Company Ltd.,
Bellampally Area,
Goleti Township-504292
Adilabad District

...Respondent

Appearances :

For the Petitioner	: Party in person
For the Respondent	: M/s. P.A. V. V. S. Sarma & Vijaya Laxmi Panguluri, Advocates

AWARD

The Government of India, Ministry of Labour by its order No. L-22012/124/2012-IR(CM-II) dated 26/9/2012 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of M/s. Singareni Collieries Company Ltd., and their workman. The reference is,

SCHEDULE

“Whether the action of the Chief General Manager, M/s. Singareni Collieries Company Ltd., Bellampally Area, Goleti Township (PO), Adilabad Distt., in disempanelling Sri K. Ravinder, Ex-Badli Filler, Goleti-2 Inc., of Bellampalli Area, with effect from 29.11.1997 is justified or not? To what relief the applicant is entitled for?”

The reference is numbered in this Tribunal as I.D. No. 56/2012 and notices were issued to the parties concerned.

1. Case is posted for filing of claim statement.

2. At this stage, Petitioner called absent. Claim statement not filed. No representation. In spite of giving fair opportunity again and again Petitioner is not taking any interest in the proceedings and is not making any claim. In the circumstances, taking that Petitioner got no claim to be made, ‘Nil’ Award is passed.

Award is passed accordingly. Transmit.

M. VIJAYA LAKSHMI, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
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NIL	NIL
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Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 7 नवम्बर, 2014

का.आ. 2918.—ऑद्योगिक विवाद अधिनियम, 1947 (1947 वा. 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एस. सी. सी. एस. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच विवाद में निर्दिष्ट ऑद्योगिक विवाद में केन्द्रीय सरकार ऑद्योगिक विवाद अधिनियम, हैदराबाद के पंचाट (संदर्भ संख्या 57/2012) द्वारा एकाधिश करती है, जो केन्द्रीय सरकार को 07/11/2014 को प्राप्त करती है।

[सं. एल-22012/127/2012-आईआर (सीएम-II)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 7th November, 2014

S.O. 2918.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 57/2012) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the M/s. Singareni Collieries Co. Ltd., and their workmen, received by the Central Government on 7/11/2014.

[No. L-22012/127/2012-IR(CM-II)]

B. M. PATNAIK, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT
HYDERABAD**

Present : Smt. M. VIJAYA LAKSHMI, Presiding Officer

Dated the 13th day of August, 2014

INDUSTRIAL DISPUTE No. 57/2012

Between :

The General Secretary,
(Sri Bandari Satyanarayana),
Singareni Telugu Nadu
Trade Union Council (STNTUC),
H. No. 5-295, Indranagar,
Opp. Bus Stand,
Mancherial - 504208
Adilabad District

...Petitioner

AND

The General Manager,
M/s. Singareni Collieries
Company Ltd.,
Bellampally Area,
Goleti Township-504292
Adilabad District

...Respondent

Appearances :

For the Petitioner : Party in person

For the Respondent : M/s. P.A.V.V.S. Sarma & Vijaya Laxmi Panguluri, Advocates

AWARD

The Government of India, Ministry of Labour by its order No. L-22012/127/2012-IR(CM-II) dated 26/9/2012 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of M/s. Singareni Collieries Company Ltd., and their workman. The reference is,

SCHEDULE

“Whether the action of the Chief General Manager, M/s. Singareni Collieries Company Ltd., Bellampally Area, Goleti Township(PO), Adilabad Distt., in disempanelling Sri Ippa Rajam, Ex-Badli Filler, Goleti No.I Inc., of Bellampalli Area, with effect from 29.01.1997 is justified or not? To what relief the applicant is entitled for?”

The reference is numbered in this Tribunal as I.D. No. 57/2012 and notices were issued to the parties concerned.

2. Case is posted for filing of claim statement.

3. At this stage, Petitioner called absent. Claim statement not filed. No representation. In spite of giving fair opportunity again and again Petitioner is not taking any interest in the proceedings and is not making any claim. In the circumstances, taking that Petitioner got no claim to be made, ‘Nil’ Award is passed.

Award is passed accordingly. Transmit.

M. VIJAYA LAKSHMI, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner Witnesses examined for the Respondent

NIL NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 7 नवम्बर, 2014

का.आ. 2919.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एस. सी. सी. एल. के प्रवंशतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुवंश में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, हैंदराबाद के पंचाट (संदर्भ संख्या 61/2012) को प्रकाशित करती है जो केन्द्रीय सरकार को 07/11/2014 का प्राप्त हुआ था:

[सं. एल-22012/116/2012-आईआर (सीएम-II)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 7th November, 2014

S.O. 2919.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 61/2012) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad now as shown in the Annexure in the Industrial Dispute between the management of the

M/s. Singareni Collieries Co. Ltd., and their workman, which was received by the Central Government on 7/11/2014.

[No. L-22012/116/2012-IR(CM-II)]

B. M. PATNAIK, Desk Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT
HYDERABAD**

Present : Smt. M. VIJAYA LAKSHMI, Presiding Officer

Dated the 13th day of August, 2014

INDUSTRIAL DISPUTE No. 61/2012

Between :

The General Secretary
(Sri Bandari Satyanarayana)
Singareni Telugu Nadu
Trade Union Council (STNTUC)
H. No. 5-295, Indranagar,
Opp. Bus Stand,
Mancherial – 504208
Adilabad District

...Petitioner

AND

The General Manager
M/s. Singareni Collieries
Company Ltd.,
Bellampally Area,
Goleti Township-504292
Adilabad District

...Respondent

Appearances :

For the Petitioner : Party in person

For the Respondent : Sri S.M. Subhani, Advocate

AWARD

The Government of India, Ministry of Labour by its order No. L-22012/116/2012-IR(CM-II) dated 3/10/2012 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of M/s. Singareni Collieries Company Ltd., and their workman. The reference is,

SCHEDULE

“Whether the action of the Chief General Manager, M/s. Singareni Collieries Company Ltd., Bellampally Area, Goleti Township, Adilabad Distt., in terminating the services of Sri Gajjeli Posham, Ex-Coal Filler, MVK-5 Inc., Bellampalli Area, with effect from 22.10.1999 is justified or not? To what relief the applicant is entitled for?”

The reference is numbered in this Tribunal as I.D. No. 57/2012 and notices were issued to the parties concerned.

3 Case is posted for filing of claim statement.
 3 At this stage, Petitioner called absent. Claim statement not filed. No representation. Inspite of giving fair opportunity again and again Petitioner is not taking any interest in the proceedings and is not making any claim. In the circumstances, taking that Petitioner got no claim to be made, 'Nil' Award is passed.

Award is passed accordingly. Transmit.

M. VIJAYA LAKSHMI, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
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NIL	NIL
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Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

मुद्रित दिल्ली, 10 नवम्बर, 2014

का.आ. 2920.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 1/2006) को प्रकाशित करती है जो केन्द्रीय सरकार को 27/10/2014 को प्राप्त हुआ था।

[सं. एल-12012/288/2004-आईआर (बी-1)]

सुमिति सकलानी, अनुभाग अधिकारी

New Delhi, the 10th November, 2014

S.O. 2920.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 1/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the State Bank of India, and their workmen, received by the Central Government on 27/10/2014.

[No. L-12012/288/2004-IR(B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present : Smt. M. Vijaya Lakshmi, Presiding Officer

Dated the 16th day of September, 2014

INDUSTRIAL DISPUTE No. 1/2006

Between :

Sri B. Murali Krishna,
C/o Sh. V.Ramanjaneyulu,
D.No.4/374, TB Road,
Guntakal

...Petitioner

AND

The Dy. General Manager,
State Bank of India,
Zonal Office,
Renigunta Road,
Tirupathi

...Respondent

Appearances :

For the Petitioner	:	Sri William Burra, Advocate
For the Respondent	:	M/s. B.G. Ravindra Reddy & B.V. Chandra Sekhar, Advocates

AWARD

Vide the proceeding No.L-12012/288/2004-IR (B-I) dated 24.8.2005, the Government of India, Ministry of Labour and Employment, made a reference to this Tribunal requiring this Tribunal to give its award on the question.

"Whether the action of the Management of State Bank of India, Tirupathi, Z.O., in terminating the services of Sri B. Murali Krishna, Ex. Sweeper, with effect from 31.3.1997, is legal and justified? If not, what relief the workman is entitled to?"

Both the workman and the Management have been notified of the reference. Both of them appeared before this Tribunal and engaged their respective counsels to assist them with the consent of each other and with the leave of the Tribunal.

2. **Sri B. Murali Krishna, the workman has filed his claim statement with the averments in brief as follows:-**

Petitioner is a workman within the meaning of Sec. 2(s) and the Respondent is an industry within the meaning of Sec.2(j) of Industrial Disputes Act, 1947. The workman was appointed as temporary messenger in the month of October, 1987. He worked for more than 10 years in the Respondent's organization. He was being appointed on casual basis on daily payment and some times on regular scale basis with continuity in service. He worked for more than 240 days in every completed year of service. He belongs to SC community. He was directly engaged by holding interview. He possesses basic education qualification having passing 10th class. Having not been absorbed in the suitable post by the bank in spite of his service rendered for a long time with unsecured tenure, the workman and other similarly placed persons took up the matter with the bank through All India State Bank of India Staff Federation to absorb them

or regularise them in such posts. The Management of the bank also decided to provide them an opportunity to consider them for permanent appointment if they are suitable for the same. That resulted in a settlement between the federation and the bank dated 17.11.1987 under Sec. 2(p) and 18(1) of Industrial Disputes Act, 1947 with rule 58 of the Industrial Disputes (Central) Rules. Under the settlement the employees are classified into three categories, i.e., 1) those who have completed 240 days temporary service in 12 months or less after 1.7.1975 2) those who have completed 270 days aggregate temporary service in any continuous block of 36 calendar months after 1.7.1975 and 3) Those who have completed a minimum of 30 days aggregate temporary service in any calendar year after 1.7.1975 or a minimum of 70 days aggregate temporary service in any continuous block of 36 calendar months after 1.7.1975. Certain conditions were prescribed to fix the suitability for permanent appointment in the said settlement. The employees are to be interviewed by a selection committee to determine the suitability. Clause 7 of the agreement provide for preparing the panel of the selected candidates to be waitlisted in the order of respective categorisation and the panels so prepared were to be valid upto December, 1991. The various criteria for consideration and procedure to be followed in absorbing such wait listed candidates in the panels are also spelt out. In pursuance of the said settlement applications were called for from such temporary eligible employees by way of a notification issued by the bank in local news papers. The workman herein applied in response to the said notification. He was called for written test and he faced viva voce conducted by the selection committee in May, 1989. He was selected along with similar candidates and waitlisted in the panel prepared by the bank. That panel is to be initially in force upto December, 1991. The bank authorities afforded one more opportunity to such employees who had not applied in pursuance of the first notification and they were also empanelled in such list by adopting some procedure. Some of the empanelled candidates were absorbed by the bank whereas the workman herein was not absorbed and was continued as such till 31.3.1997. The life of such panels was extended from time to time till 31.3.1997 as per the settlements between the Management and the federation. The workman herein with other similarly situated persons was given the impression that the panels were kept alive till all the empanelled candidates were absorbed in pursuance of the settlements and that no fresh recruitment will be taken up by the bank till they were all absorbed. The workman herein along with the others was expecting that they would be regularised in the bank on permanent basis. The said expectation was strengthened further by the circular of the Government of India dated 16.8.1990 issued to all the Chief Executives of the public sector banks including the Respondent bank that until the

problem of the existing temporary employees is resolved no bank will be permitted to take temporary appointments. In spite of it the Respondent choose to absorb or regularise only some of the persons in the panels but did not regularise the workman herein and some others. Thus, the State Bank of India temporary employees union filed WP 4194 of 1997 before Hon'ble High Court of A.P. seeking for declaration that the action of the Respondents in not implementing the settlements as illegal arbitrary etc and to direct the Respondents to absorb them all by 31.3.1997. The writ petition was disposed off on 5.3.1997 directing the Respondents to implement the settlement before the expiry of 31.3.1997. But the officers of the bank issued directions by the higher authorities on 25.3.1997, 27.3.1997 and 31.3.1997 seeking to terminate the services of the workman and others in the panel and further directions to engage them after 31.3.1997. In pursuance of the said instructions the workman herein and others were orally terminated in violation of terms of the settlement legitimate expectation of the said persons and in violation of directions of the Hon'ble High Court of A.P. in WP No.4194 of 1997. Further, the persons not empanelled are appointed unsuitable candidates were empanelled and appointed, candidates in the second panel have been appointed in preference and without exhausting the first panel, though the candidates therein had put in comparatively more service than the persons who have been appointed. There has been clear discrimination in choosing the candidates for appointment and absorption. Therefore the action on the part of the Respondents is illegal, arbitrary, discriminatory and in violation of articles, 14, 16 and 21 of the Constitution of India. It is a clear case of unfair labour practice also. Only to avoid legal consequences, Respondents have resorted unethical and illegal method terminating the services of the workman before the expiry of 240 days of service in spite of empanelling him for absorption after selection. All the exercise by the Respondents in preparing the panels including the workman herein and others is only for absorption and not for termination. The workman herein along with others filed WP No.28328 of 1996 seeking for a direction to the Respondents to regularise their services from the date of empanelment. The said petition was allowed. Respondents filed writ appeal against the orders in the said petition and the said appeal was allowed observing that the matter has to be dealt with under the provisions of Industrial Disputes Act, 1947 and not by resorting to the writ jurisdiction of the court. The workman rendered more than 10 years of service without any blemish or bad remark. Ever since the date of his oral termination he remained unemployed as he could not secure any other employment inspite of his best efforts. He is fully eligible and entitled to be reinstated and regularised in the post with all consequential benefits. But the Respondents are indulging in such acts only to deny the workman's legitimate right of regularization.

Hence, the action of the Respondents in terminating the services of the Petitioner/ workman by oral termination order dated 31.3.1997 as illegal and unjustified and direct the Respondents to grant relief of reinstatement with continuity of service with full back wages and all other attendant benefits.

The Respondent bank filed their counter with the averments in brief as follows:

The reference itself is not tenable. To tide over the severe subordinate staff constraints which arose out of leave vacancies, exigencies etc., and also owing to the restrictions imposed by the Government of India/Reserve Bank of India on intake of staff i.e., messenger, sweepers cum water boys etc., the bank used to engage temporary staff depending upon the availability of work and on a purely temporary basis for smooth and uninterrupted functioning of the branches. The All India State Bank of India Staff Federation espoused the cause of temporary employees who have put in less than 240 days of temporary service in 12 calendar months the bank who were ineligible for any kind of protection under the Industrial Disputes Act, 1947 and requested the bank for chance to being considered for absorption and permanent appointment to such of the temporary employees. Discussions were held and a settlement could be reached. An agreement was signed on 17.11.1987 between the Federation and the bank Management. The employees were categorised as A,B, and C and it was agreed that temporary employees as categorised would be given for chance for being considered for permanent appointment in the bank's service against the vacancies which are likely to arise within the period 1987 to 1991. A further agreement arrived at on 16.7.1988 to substitute the period for consideration of vacancies as 1987 to 1992. On 27.10.1988 further agreement was arrived at agreeing to incorporate a clause to the effect that all persons to have been engaged on causal basis to work in leave/casual vacancies of Messengers, Farrashes, Cash Coolies, Water Boys, Sweepers etc., for any of the periods mentioned in category A,B and C will be given a chance for being considered for permanent appointment in bank's service against the vacancies likely to arise from 1988 to 1992. Vide letter dated 16.8.1990 Government of India, issued directions to the public sector banks regarding recruitment and absorption of temporary employees. The said guide lines are clear that all the public sector banks may follow the provisions laid down in the Approach Paper which is specified that the cases of temporary employees who had put in not less than 240 days of temporary service in 12 consecutive months and who are entitled to the benefits under Sec.25F of the Industrial Disputes Act, 1947 may be decided by entering into a settlement with the representative union. The Respondent bank has followed the Government of India guidelines and also covered the cases of the employees who had worked for less than 90 days. Thus, there is no violation of any of the guidelines

and directions. In pursuance of the IV settlement arrived at on 9.1.1991 the cut off the year 1992 was substituted with 1994. Separate panels were prepared for temporary employees and casual/daily wagers for filling up the vacancies arising between 1988 and 1994, in respect of temporary employees and in respect of casual and daily wagers who can be considered for the vacancies arising between 1995 and 1996 only. After following the procedure laid down the Management prepared the panels of qualified candidates of temporary employees and casual/daily wagers, zone-wise separately for messengers and non-messengers in the descending order of temporary service put in by the candidates during this stipulated period i.e., 1.7.1975 to 31.7.1988. In pursuance of the further agreement between the Management and the federation both the panels were kept alive upto March, 1997 for filling up the vacancies existing/arrived at as on 31.12.1994. A memorandum of understanding dated 27.2.1997 was also arrived at. The workman has not put in more number of days than those who are since now been absorbed. He never worked continuously for years. He has not put in aggregate temporary service of 240 days in a continuous 12 months period during 1.7.1975 to 31.7.1988. Thus, he had no right to seek a direction to consider his candidature for absorption. His case has been considered under the various settlements. The bank has not violated any of the provisions on terms of the said settlements. The panels lapsed and ceased to exist at the end of designated period i.e., 31.3.1997. The remaining candidates on the panels including the workman herein has no right or claim against the bank as expressly stated in settlements. There is no agreement to keep alive the panels till all the empanelled candidates are absorbed. If the workman did not intend to accept the settlement he should have raised the objection before appearing for interview and consequent empanelment. Having claimed the benefits accrued under the settlements and the consequent empanelment etc., he is debarred and estopped from questioning the validity of the settlements. It has been specifically agreed between the parties in the settlement dated 9.1.1991 that the vacancies arising upto December, 1994 will be filled from 1989 panel on the basis of seniority. Therefore, the said panels should lapse and the remaining candidates have no claim to be considered for permanent absorption of the bank. The number of days worked subsequent to 31.7.1988 will not be counted as per the agreements. The bank never promised that all the empanelled candidates will be absorbed. Mere empanelment will not give any right for absorption in favour of the workman herein. The application is admittedly based on settlements and not any independent right to seek regularization much less any provision of Industrial Disputes Act, 1947. The panels under the settlements were expressly by time bound. The last extension expired on 31.3.1997. This is an integral term of settlement and can not be modified

under any proceeding under law. Those temporary employees who unfortunately could not be accommodated for want vacancies have not further right to be considered either under the settlements or otherwise. In WP No.12964 of 1994 filed by some of the temporary employees who are also empanelled is held that the only recourse to which those persons are entitled to is to claim for enforcement of settlements if there is any right flowing from it has been violated. The settlement do not suggest that the temporary employees could be continued indefinitely. If the relief sought for herein is permitted would result in making the practice of temporary employment permanent through back door entry which would not only contrary to settlement but also to the articles 14 and 16 of constitution and deprive the chances of rightful claimant who would if necessary come through proper recruitment procedure. The settlements were made as one time measure to bring out an end to the practice of temporary engagement. There is no question of any legitimate expectation or estoppel. As the rights of the workman herein were crystallised by the operation of settlements. The observations made in the judgement in WP No.9206 of 1997 were of no consequence and it can not be relied upon. Sec.25F of Industrial Disputes Act, 1947 is not relevant since the workman herein has not worked for 340 days in any preceding 12 calendar months period. The allegation that he was terminated from service is not correct. The vacancies were filled up on regular vacancies in the order of seniority, non-engagement of the workman herein does not amount to termination. Very engagement of the workman was subject to availability of work. The bank never indulged in any unfair labour practice. The issue is covered by various judgements of Hon'ble Supreme Court of India and Hon'ble High Courts. There are no merits and the claim is to be rejected.

4. To substantiate the contentions of the workman he examined himself as WW1 and got marked Ex.W1 to W4. On behalf of the Management MW1 was examined and Ex.M1 to M13 are marked.

5. Heard the arguments of either party. Written arguments and additional written arguments are also filed by either party and the same are received and considered.

6. The points that arise for determination are:

- I. Whether the action of the Management of State Bank of India, Tirupathi Z.O., in terminating the services of the workman herein with effect from 31.3.1997 is legal and justified?
- II. To what relief the workman is entitled?

7. Point No. I:

As can be gathered from the record, it is an undisputed fact that the workman had been in service of

the Respondent bank from the year 1987 and until the date of the alleged termination of his service i.e., 31.3.1997. Petitioner is claiming that he has been in continuous service during this period whereas, it is the contention of the Respondent bank that it was not a continuous service and that as and when the work was available, Management used to entrust the same to the workman.

8. But the fact remains that in pursuance of the settlements arrived between All India State Bank of India Staff Federation and the Respondent bank panels were prepared for absorption of the workmen like the present Petitioner workman who rendered casual/temporary service for the Respondent bank continuously for substantial period. It is also an admitted fact that the name of the workman herein found place in a panel so prepared for absorption of the workmen into regular service of the bank and thus, he has been an empanelled workman.

9. For empanelling, procedure is admittedly prescribed in the settlements arrived at between the staff federation and the Management of the bank. Ex.M1 is the Photostat copy of the settlement dated 17.11.1987, whereunder, how the employees are to be categorised into category-'A', 'B' and 'C', is prescribed. The procedure for appointing the workers in permanent service is also prescribed in this settlement. As per clause 7 of Ex.M1 settlement, a selection committee has to determine suitability / unsuitability of temporary employees for permanent appointment in the bank. After completion of interviews interview committee will finalise panels for full time and part time appointment for suitable candidates for messengerial and non-messengerial positions. Names of suitable candidates will be listed in order of their respective categories viz., A,B,C and length of aggregate temporary service put in the bank between 1.7.1975 to 31.12.1987 or any other date so fixed by the bank and these panels were to be valid upto December, 1991. As per the settlement, the guidelines regarding reservation of vacancies for SC/ST/ Ex.Servicemen etc., will be applicable.

10. Evidently, the workman herein was qualified for empanelling. The material on record clearly discloses that when a notification was issued calling for applications from eligible candidates the workman herein has applied for and he was called for written test and also viva voce both of which he attended. He was empanelled in 1989 panel. It is the contention of the Respondent bank that the entire selection process has been conducted by the Respondent bank adhering to the instructions in Ex.M1 settlement, letter and spirit. Therefore, it can safely be taken that the selection committee found the workman herein as suitable for permanent appointment in the bank and thus, empanelled him.

11. The absorption of temporary employees into the regular service of the bank took place in pursuance of the above mentioned settlement, has been a one time measure to solve the discrepancies in the bank's service and to see that there will be no temporary employees any further by absorbing the suitable temporary employees already working for the banks into regular service and thereafter stopping appointing/engaging any more further temporary employees.

12. It is an admitted fact that the temporary workmen found to be suitable for absorption into regular service were empanelled and wait list was prepared with such candidates. Annexure-B, Clause –VII of Ex.M1 settlement provides for the preparation of waiting list. As per the same, candidates found suitable for appointment as messengers with combined designation, candidates found suitable for non-messengerial positions, candidates found suitable for positions of bank guards and the candidates found suitable as sweepers, by the selection committee will be mentioned in these waiting lists. Thus, in preparation of these waiting lists finding of suitability of the candidates by the selection committee is the criteria. That means, if any employee's name is entered into these waiting lists, what one can reasonably understand is that he is found to be suitable for permanent employment by the selection committee. In such case, once the lists are prepared, each and every candidate whose name is mentioned in the said list is to be extended with the benefit of permanent employment unless there is a strong reason for not doing so, that too in seriatum.

13. Annexure 'B', Clause-VII of Ex.M1 settlement, further lays down that while preparing the panels names of suitable candidates will be waitlisted in order of their respective categorises viz., A.B and C.. Further, in each of these categories names of candidates will be given in the descending order according to length of temporary service put in by them. In other words a candidate who has put in maximum aggregate temporary service during the period 01.01.1975 to 31.12.1987 will be placed at the top in his category(A.B or C as the case may be), the candidate who is next to him in length of service will be placed next to him and so on."

14. In the present case evidently, the workman herein has been in the first place and one Mr. E. Gopal, is in Sl.No.6, and one Mrs. M. Devamma is at Sl.No.11 in 1989 panel. If the Management bank adhered to the guidelines given in Ex.M1 settlement in letter and spirit while preparing the said panel, as they are claiming what one has to understand is that as the workman herein has put in more service than that of the other two persons mentioned above, his name found place in Sl.No.1. The contra contentions raised now for the purpose of this case are therefore ought to be taken as far from truth. This can be said so since, while interviewing the candidates

and considering their suitability the selection committee will have the benefit of scrutinising the entire record pertaining to the candidates including the workman herein. After such scrutiny the selection committee found the workman to be having more service than that of the two other candidates and therefore put him in the first place whereas the other two persons were put in 6th and 11th places in the panel.

15. In usual course of conduct, once empanelment is there, the empanelled candidate shall be absorbed in the permanent service in their seriatum but not on any pick and choose methods. It can be said so since the suitability of all the said persons and their respective length of services and other relevant aspects have been considered duly by the selection committee and they were empanelled in the given seriatum. The only deviation permissible is while giving effect to the reservation policy.

16. In the present case, there is no dispute as to the fact that the workman herein is a scheduled caste person. Srio E. Gopal who is '6' in seriatum and Smt. Devamma who is '11' in seriatum in 1989 panel have already been absorbed in permanent service of the bank whereas the workman herein have been denied of the same. Said E. Gopal is also a Scheduled caste person whereas Smt. Devamma is a Scheduled Tribe person as can be seen from the contentions of the Respondent bank. When the workman herein as well as Mr. E. Gopal are SC persons and the workman herein has been in the first place in seriatum, how Mr. E. Gopal can be given preference over the workman while absorbing in permanent service of the bank is a question which is not properly answered.

17. It is the claim of the Respondent bank that Sri E. Gopal has put in more service than that of the workman herein. The workman is seriously disputing with the correctness of this contention. The fact that the selection committee who functioned adhering to the guidelines issued in Ex.M1 settlement while preparing the panel has empanelled the workman in the first place while empanelling the Sri E. Gopal in 6th place indicates that the contention of the Respondent bank that said E. Gopal put in more service than that of the workman herein is not at all correct. It can be said so since as already discussed above, annexure-B, clause –VII of Ex.M1 settlement lays down that the names of the candidates in the panel are to be given in the descending order according to the length of service put in by them.

18. Inspite of the position being such, the Respondent bank who arbitrarily denied the benefit of absorption of the workman herein in permanent service has discontinued his service with effect from 31.3.1997 that too, ignoring the directions of the Hon'ble High Court of A.P. to consider his case in the light of the settlements governing both the bank and the employees.

19. The question to be adjudicated now is justification or otherwise of termination of the services of the workman herein by the State Bank of India, Tirupathi Zonal Office, with effect from 31.3.1997. For the reasons discussed above, it can clearly be seen that the Management of the bank is not at all justified in terminating the services of the workman who put in 10 years of long service with them and further, who was empanelled for absorption into permanent service by the selection committee after finding him suitable for such absorption. Further more, the workman who put in long years of service with the Respondent bank has been just terminated from service without extending any benefits to which the workman will be entitled to under law, he has not even been issued with any notice mentioning the reason why his services have been terminated and thereby giving an opportunity to him to explain his cause.

20. It is the contention of the Respondent bank that the workman was never terminated from service and that as there was no work to be allocated to him he was not engaged any further. If no work is available and workman is not entrusted with any further work it amounts to retrenchment only. Thus, it amounts to termination from services only. For the various reasons discussed above, such termination of service is not legal and justified.

This point is answered accordingly.

21. Point No. II :

In view of the finding given in Point No.I, Petitioner is entitled for reinstatement into temporary/casual service of the Respondent bank with effect from 31.3.1997.

Result : In the result the reference is answered as follows:

The action of the Management of State Bank of India, Tirupathi Z.O., in terminating the services of Sri B. Murali Krishna, Ex.Sweeper w.e.f. 31.3.1997 is neither legal nor justified. Respondent bank is directed to reinstate the Petitioner workman into temporary/casual service of the Respondent bank with effect from 31.3.1997.

Award passed accordingly. Transmit.

M. VIJAYA LAKSHMI, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner **Witnesses examined for the Respondent**

WW1 : Sri B. Murali Krishna. M.W.1 : Sri R. Venkateswara Rao

Documents marked for the Petitioner

Ex. W. 1 : Photostat copy of Certificate issued by State Bank of India showing that the Petitioner served in the bank as Messenger for 1048 days along with pay drawn statement dt. 19-02-1998

Ex. W. 2 :	Photostat copy of Service Certificate-cum-Introduction Letter of the Petitioner dt.21-2-1998 .
Ex. W. 3 :	Photostat copy of Certificate issued by State Bank of India showing that the Petitioner served in the bank as Messenger for 719 days dt. 19-8-1996
Ex. W. 4 :	Photostat copy of Service Certificate-cum-Introduction Letter of the petitioner dt. 21-8-1989.

Documents marked for the Respondent

Ex. M. 1 :	Photostat Copy of settlement signed between All India State Bank of India Staff Federation and S.B.I. dt.17-11-1987
Ex. M. 2 :	Photostat Copy of settlement signed between All India State Bank of India Staff Federation and S.B.I. dt.16-07-1988
Ex. M. 3 :	Photostat Copy of settlement signed between All India State Bank of India Staff Federation and S.B.I. dt.27-10-1988
Ex. M. 4 :	Photostat Copy of settlement signed between All India State Bank of India Staff Federation and S.B.I.dt.09-01-1991
Ex. M. 5 :	Photostat Copy of Minutes of the conciliation proceedings held before the RLC , Hyderabad dt. 09-06-1995
Ex. M. 6 :	Photostat Copy of settlement signed between All India State Bank of India Staff Federation and S.B.I. dt. 30-07-1996
Ex. M. 7 :	Photostat Copy of memorandum of Understanding. 27-02-1997
Ex. M. 8 :	PhotostatCopy of statement given the Particulars of 1989 Messenger Panel.
Ex. M. 9 :	Photostat Copy of statement of 1989 Non Messenger Panel.
Ex. M. 10:	Photostat Copy of statement of 1992 Panel.
Ex. M. 11:	Photostat Copy of Judgment of Hon'ble High Court in WA No.86/98. dt. 01-05-1998
Ex. M. 12:	Photostat Copy of Judgment in SLP No. 11886-11888 of 1998. dt.10-08-1998
Ex.M.13 :	Original Register containing 1989 panel

नई दिल्ली, 10 नवम्बर, 2014

का.आ. 2921.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के जीव अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक

अधिकरण, हैदराबाद के पंचाट संदर्भ संख्या (31/2012) को प्रकाशित करती है जो केन्द्रीय सरकार को 27/10/2014 को प्राप्त हुआ था।

[सं. एल-12012/17/2012-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 10th November, 2014

S.O. 2921.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 31/2012) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad now as shown in the Annexure in the Industrial Dispute between the management of the State Bank of India, and their workmen, received by the Central Government on 27/10/2014.

[No. L-12012/17/2012-IR(B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present : Smt. M. Vijaya Lakshmi, Presiding Officer

Dated the 9th day of July, 2014

INDUSTRIAL DISPUTE No. I.D. 31/2012

Between :

Sri V. V. Sharma,
H. No. 43-77-14/A,
Block No.77,
A. S. Nagar,
Vijayawada.

...Petitioner

AND

- I. The Assistant General Manager,
State Bank of India,
Zonal Office, Admn. Unit,
Suryaraopet,
Vijayawada.
- II. The Branch Manager,
State Bank of India,
BRP Branch,
Governorpet,
Vijayawada – 002.
...Respondents

Appearances :

For the Petitioner : Party in person

For the Respondent : Sri B.S. Prasad, Advocate

AWARD

The Government of India, Ministry of Labour by its order No. L-12012/17/2012-IR(B-I) dated 19.7.2012

referred the following dispute between the management of State Bank of India and their workman under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal. The reference is,

SCHEDULE

“Whether the action of the management of State Bank of India, Vijayawada in terminating the services of Shri V.V. Sharma w.e.f. 4/10/2008 is legal and justified? To what relief the workman entitled?”

The reference is numbered in this Tribunal as I.D. No. 31/2012 and notices were issued to the parties.

2. The case stands posted for filing of claim statement.

3. At this stage, Claim statement is not filed. Petitioner called absent and there is no representation. Inspite of giving fair opportunity Petitioner is not making any claim and is not taking interest in the proceedings. In the circumstances, taking that Petitioner got no claim to be made, a ‘Nil’ Award is passed.

Award passed accordingly. Transmit.

M. VIJAYA LAKSHMI, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
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NIL	NIL
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Documents marked for the Petitioner	
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NIL

Documents marked for the Respondent	
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NIL

नई दिल्ली, 10 नवम्बर, 2014

का.आ. 2922.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एकसिस बैंक लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण हैदराबाद के पंचाट (संदर्भ संख्या 101/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 27/10/2014 को प्राप्त हुआ था।

[सं. एल-12012/99/2013-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 10th November, 2014

S.O. 2922.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 101/2013) of the Central Government Industrial Tribunal-cum-

Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the management of Axis Bank Limited, and their workmen, received by the Central Government on 27/10/2014.

[No. L-12012/99/2013-IR(B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present : Smt. M. VIJAYA LAKSHMI, Presiding Officer

Dated the 31st day of July, 2014

INDUSTRIAL DISPUTE No. 101/2013

Between:

Smt. D. Devakilatha,
D. No. 9-4-366,
Jogavanipalem,
High School Road,
Old Gajuwaka,
Visakhapatnam-530 026.

...Petitioner

AND

1. The Managing Director, M/s. Premier Security & Maintenance Services, 201, Ganga Complex, Kharkhana, Secunderabad – 500015.
2. The Vice President, Axis Bank Limited, Dwarakanagar Branch, Dwarakanagar, Visakhapatnam

...Respondents

Appearances :

For the Petitioner : Party in person

For the Respondent : Party in person for R1 and R2

AWARD

The Government of India, Ministry of Labour by its order No. L-12012/99/2013-IR(B-I) dated 19.11.2013 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of M/s. Premier Security & Maintenance Services, Secunderabad and their workman. The reference is,

SCHEDULE

"Whether the action of the management of M/s. Premier Security & Maintenance Services, Secunderabad (engaged in Security services—a

contractor of Axis Bank Branches in Visakhapatnam area) in terminating the services of Smt. D. Devakilatha, Ex-House Keeping worker in Axis Bank, Dwarakanagar Branch is legal and/or justified? If not, to what relief she is entitled for?"

The reference is numbered in this Tribunal as I.D. No. 101/2013 and notices were issued to the parties concerned.

2. Case is posted for filing of claim statement by Petitioner.

3. At this stage, Petitioner called absent. Claim statement not filed. No representation. Inspite of giving fair opportunity again and again Petitioner is not taking interest in the proceedings and is not making any claim. In the circumstances, taking that Petitioner got no claim to be made, 'Nil' Award is passed.

Award is passed accordingly. Transmit.

M. VIJAYA LAKSHMI, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
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NIL	NIL
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Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 10 नवम्बर, 2014

का.आ. 2923.—औद्योगिक विवाद अधिनियम, 1947 (1947

का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार परामर्शदाता ग्रामीण बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्तव्यों की बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार और उनके अधिकरण एवं श्रम न्यायालय, नागपुर के पंचाट (संदर्भ नं. 32/2011) को प्रकाशित करती है जो केन्द्रीय सरकार को 30/10/2013 को प्राप्त हुआ था।

[सं. एल-12012/98/2011-आईआर (ची-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 10th November, 2014

S.O. 2923.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 32/2011) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure in the Industrial Dispute between the management of the Maharashtra

Gramin Bank, and their workmen, received by the Central Government on 30/10/2014.

[No. L-12012/98/2011-IR(B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE SHRI J.P.CHAND, PRESIDING OFFICER, CGIT-CUM-LABOUR COURT, NAGPUR

Case No. CGIT/NGP/32/2011

Date: 10.10.2014.

Party No.1 : The Chairman,
Maharashtra Gramin Bank,
HO, Shivaji Nagar,
Nanded (MS).

Versus

Party No.2 : Shri Bajranglal R. Pariyal,
R/o Naik nagar, Nanded Road,
Dist. Hingoli (MS).

AWARD

(Dated: 10th October, 2014)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of Maharashtra Gramin Bank and their workman, Shri Bajranglal R. Pariyal, for adjudication, as per letter No.L-12012/98/2011-IR (B-I) dated 09.12.2011, with the following schedule:

"Whether the action of the management of Maharashtra Gramin Bank, Nanded in awarding punishment of dismissal from service w.e.f. 19.03.2010 to Shri Bajranglal R. Pariyal is legal and justified? To what relief the workman is entitled?"

2. On receipt of the reference, parties were noticed to file their respective statement of claim and written statement, in response to which, the workman, Shri Bajranglal R. Pariyal, ("the workman" in short) filed the statement of claim and the management of Maharashtra Gramin Bank ("party no.1" in short) filed the written statement.

The case of the workman as presented in the statement of claim is that the party No.1 is an industry and the provisions of the Act are applicable to it and he was in service of party No.1 as a clerk w.e.f. 23.02.1981 and he was promoted to the post of officer in the month of August, 1984, but he came to be reverted to the post of clerk by party No.1 and conditions of service of the employees of

party No.1 are governed by the Maharashtra Gramin Bank Officers and Employees Service Regulations, 2009 ("the Regulation" in short) and while he was working at Jawala Bazar Branch, he was suspended from service, vide order dated 20.05.2008 and he was served with the charge sheet dated 27.11.2008, containing as many as 10 charges, purported to have been covered under the provisions of Regulation 38 of Maharashtra Gramin Bank (Officer and Employees) Service Regulations, 2001 and a departmental enquiry was constituted by appointing Shri S.G.Kulkarni and the Enquiry Officer conducted the inquiry in his own style and submitted his findings dated 18.06.2009, declaring all the charges to have been proved against him and the disciplinary authority vide order dated 18.03.2010, awarded the punishment of dismissal for charges 1 to 9 and punishment of reduction by one stage in the time scale for charge no.10 and he came to be dismissed from services on 19.03.2010 and the appeal preferred by him against the order of punishment was rejected unheard by the Appellate Authority.

It is further pleaded by the workman that the party no.1 decided to file a police complaint against him and accordingly, a police complaint came to be registered with Hatta Police Station on 26.05.2008 and he was arrested by the police and was released on bail and trial before the competent court is yet to be completed and the departmental enquiry conducted against him was not fair and therefore, invalid and illegal and during the process of the departmental enquiry, there was undue amendment of the original charge sheet and on 19.02.2009, the Enquiry Officer allowed the management to examine the witnesses in his absence and leading questions were allowed to be asked to the witnesses and permission was not given to him to engage advocate for his defence on untenable ground by the Enquiry Officer and the Enquiry Officer acted as the prosecutor and asked series of questions to every witness, with a view to fill up the gaps in the evidence led by the presenting officer and the decision of the Enquiry Officer to conduct exparte enquiry was not reasonable and due to such decision, he was deprived of the opportunity of cross-examining the witnesses produced on behalf of the management of the Bank and Regulation 19 of the service condition was misconstrued and misplaced and the charge sheet was vague and not specific and he was not given personal hearing by the Appellate Authority before disposal of the appeal and there was violation of the principles of natural justice and he was not provided with certain important documents required for his defence, inspite of his submission of an application for the same and thereby, reasonable opportunity for his defence was denied by the Enquiry Officer and even though, he was kept under suspension, he was not paid full subsistence allowance by the management and party no.1 without waiting for the result

of the criminal complaint made against him, proceeded with the departmental enquiry unnecessarily and he was not given adequate opportunity to produce witnesses in his defence and the Enquiry Officer was biased against him and as such, the enquiry conducted against him was merely a farce of enquiry and principles of natural justice, reasonable opportunity of defence and rules regarding conduction of enquiry were not followed and the enquiry was unfair and invalid.

It is also pleaded by the workman that the findings of the Enquiry Officer are perverse and non-application of mind is writ large on the face of the findings of the Enquiry Officer and the reasoning given by the Enquiry Officer are casual and mechanical and not based on evidence on record and during his absence, unauthorized persons were allowed to touch the records of the branch and to his knowledge, one Shri Talankar, who was not an employee of the Bank was asked to enter and deal with the records of the Bank at the instance of the Branch Manager, Shri Inamdar and the said facts were not touched and considered by the Enquiry Officer before coming to the conclusion and after his dismissal from service, he is not gainfully employed. The workman has prayed for his reinstatement in service with continuity, full back wages and all consequential benefits.

3. The party no.1 in the written statement has pleaded inter-alia that the workman was in its employment as a clerk w.e.f. 23.02.1981 and he was promoted to the post of an officer in the month of October, 1984 and not in the month of August, 1984, as claimed by him and while working as an officer, the workman committed grave misconduct and irregularities, so after conducting an enquiry, he was reverted back to the post of clerk on 20.01.2001 and again he committed misconduct, which was detrimental to its interest, so the workman was served with the charge sheet dated 31.10.2007 and after enquiry, charges were proved and punishment was imposed on him and he was brought to the initial stage of the pay scale of the clerk and while working at Jawala Bazar branch, the workman was suspended from service, vide order dated 25.05.2008, followed by the charge sheet dated 27.11.2008, containing as many as ten charges and thereafter, corrigendum dated 23.01.2009 was issued making minor correction in the charge sheet and the words, "was located" were replaced by the words, "has occurred", for the reason of his involvement in fraudulent transactions and other irregularities and for misappropriation of the funds of the Bank to the tune of Rs. 27,22,100/-, during the period from 01.11.2007 to 31.12.2007, when the Branch Manager, Shri D.D. Inamdar was on leave from 25.11.2007 to 01.01.2008 and during that period, the workman alone was handling the work of the said branch.

It is further pleaded by party no.1 that the service conditions of its employees were governed by Marathwada

Gramin Bank Officer and Employees Service Regulation, 2001, at the time of issuance of the charge sheet against the workman and there was amalgamation of the said Bank on 20.07.2009 and new service Regulation gazetted as "Maharashtra Gramin Officers & Employees Service Regulation, 2009 came into operation and a full fledged departmental enquiry was conducted against the workman and he was given full opportunity to defend himself and the Enquiry Officer, Shri S.G. Kulkarni conducted the enquiry by following the principles of natural justice and according to the laid down procedure and after recording the evidence of both the parties and taking into consideration the submissions made by the parties and documents filed by them in the enquiry, the Enquiry Officer reached to the decision that the charges levelled against the workman were proved and accordingly, submitted his findings on 18.06.2009 and the workman was given the second show cause notice on 18.02.2010 and he was directed to appear before the Disciplinary Authority for hearing on 26.02.2010, in respect of the proposed punishment of dismissal and the workman appeared before the Disciplinary Authority and made submission before him and considering the gravity of the misconduct and the past record of the workman, the Disciplinary Authority imposed the punishment of dismissal from service for charge Nos. 1 to 9 and punishment of reduction by one stage in time scale for charge no.10 and the punishment imposed against the workman by the disciplinary authority dated 18.03.2010 is legal, just and proper and being aggrieved by the punishment imposed upon him, the workman preferred an appeal to the Chairman of the Bank on 30.04.2010 but after perusal of all papers of the departmental enquiry and taking into consideration of the gravity of the misconduct and the past record of the workman, the Appellate Authority rejected the appeal and the service record of the workman was totally blemished with proved charges of dishonesty, deceit and misappropriation as the workman misappropriated an amount of Rs. 27,22,100/- and he unauthorisedly took away the branch records related to the misappropriated amount and did not return the Bank's records, inspite of repeated directions, so, the management was justified to lodge a police complaint at Hatta Police Station against him and police registered a case against the workman under sections 409 and 420 and 201 of the I.P.C., on 26.03.2010 and the trial of the case is in progress in the competent court against the workman and the criminal proceedings has nothing to do with the dismissal of the workman from service after holding of the departmental enquiry.

It is also pleaded by party no.1 that the original charge sheet can be legally changed by corrigendum as the corrigendum was received by the workman before the date of the enquiry and the enquiry was commenced on 05.01.2009 and the workman remained absent on 05.01.2009, so the date of enquiry was adjourned.

07.02.2009 and on 07.02.2009, the workman attended the enquiry and raised number of objections, which were dealt with by the Enquiry Officer by following the principles of natural justice and the workman requested to fix the enquiry at Aundha Nagnath on 19.02.2009 and as per the request of the workman, the Enquiry Officer fixed the enquiry on 19.02.2009 at Aundha-Nagnath, but the workman did not attend the enquiry on 19.02.2009 and therefore, the Enquiry Officer rightly proceeded with the enquiry ex parte on 19.02.2009 and it is a false statement that the Enquiry Officer allowed leading questions to be asked to the witnesses and as per Marathwada Gramin Bank (Officer & Employees) Service Regulation 2001, the charge sheeted employee can be defended by another employee of the bank and in the charge sheet dated 27.11.2008, it was specifically mentioned that the workman was permitted to be defended by a representative who should essentially be an employee of the Bank and in the enquiry held ex parte on 19.02.2009, the Enquiry Officer asked few questions to the witnesses to know the facts and truth of the case and the same cannot be termed as unfair and invalid and the enquiry was fixed to 16.03.2009 with the consent of the workman, but he did not attend the enquiry on that date and the enquiry was fixed to 19.03.2009, which was attended by the workman and on that date, he demanded ten additional documents to defend his case and the Enquiry Officer dealt in detail regarding the relevancy of each and every document sought by the workman and supplied 6 relevant documents to him and four irrelevant and ambiguous documents were not given to him and the workman was given ample opportunities to defend the case, but he did not avail the same and the charge sheet submitted against the workman was specific and as per procedure of the Bank and the workman had not asked the Appellate Authority for personal hearing and as such, the appeal was disposed of by the appellate Authority after going through his application and all documents of the departmental enquiry and it is false to say that the Enquiry Officer was biased against the workman or that unauthorized person was allowed to deal with the records of the branch and the enquiry was conducted by observing the principles of natural justice and the same is fair and the workman is not entitled to any relief.

4. As this is a case of dismissal of the workman from service after holding of a departmental enquiry against him, the fairness or other wise of the departmental enquiry was taken as a preliminary issue for consideration and by order dated 28.07.2014, the departmental enquiry conducted against the workman was held to be legal, proper and in accordance with the principles of natural justice.

5. At the time of argument, it was submitted by the learned advocate for the workman that the charge sheet submitted against the workman was vague and the same

was not under regulation 19 of the service condition and amendments were made in the said charge sheet illegally and the Bank had filed police complaint with Hatta police Station on 26.05.2008 and the incident in the departmental inquiry and the criminal trail were the same and identical and the trial before the competent Court is yet to be completed and therefore, the departmental enquiry conducted by the party No.1 was unfair, invalid and illegal.

It was further submitted by the learned advocate for the workman that the findings of the Enquiry Officer were perverse and non application of mind is writ large on the face of the findings of the Enquiry Officer and the reasonings given by the Enquiry Officer were casual and mechanical and not based on evidence on record and principles of probability were not considered in favour of the workman and the Enquiry Officer lost sight of the fact that the workman was a clerk and it was the duty of the management to make arrangement of Officer to supervise the branch, especially when it was known to the Bank that the permanent Branch Manager was on long leave and during the absence of the workman, unauthorized person and who was not an employee of the Bank was allowed to deal with the records of the branch at the instance of the branch Manager, Shri Inamdar and as such, the conclusions arrived at by the Enquiry Officer are perverse and the punishment imposed against the workman is shockingly disproportionate and the workman is entitled for reinstatement in service with continuity and full back wages.

6. Per contra, it was submitted by the learned advocate for the party No.1 that as per order dated 28.07.2014, the departmental enquiry conducted against the workman has already been declared as valid and in accordance with the principles of natural justice and all most all the submissions made by the learned advocate for the workman relate to the fairness of the departmental enquiry and such submissions have already been considered by the Tribunal at the time of deciding the preliminary issue of the fairness of the departmental enquiry, so there is no scope for reconsideration of the same. It was further submitted that the findings of the Enquiry Officer are based on the evidence adduced in the enquiry and not on any extraneous material and the Enquiry Officer after analyzing the evidence adduced in the enquiry in a proper manner has rightly arrived at the conclusions and the findings are not perverse and commission of serious misconduct has been proved against the workman in a properly conducted departmental enquiry and party no.1 has lost confidence in the workman and as such, the punishment of dismissal of the workman from services cannot be said to be shockingly disproportionate, so as to call for the interference of the Tribunal and the workman is not entitled to any relief.

7. So far the submission made by the learned advocate for the workman that the charge sheet submitted against the workman was vague and due to the amendment made to the charges, the workman was prejudiced is concerned, it is to be mentioned that as many as ten charges were levelled against the workman in the charge sheet and the charges were very specific and not vague. Details of the charges were mentioned in the charge sheet. So far the amendment of the charges is concerned, on perusal of the documents it is found that only the word, "located" was substituted for the word, "occurred" in respect of the charges No. 2, 4, and 5 to 9, which was very formal and no way caused any prejudice to the workman. Hence, I find no force in the contentions raised by the learned advocate for the workman in that regard.

8. The next contention raised by the learned advocate for the workman was regarding initiation of the departmental inquiry and criminal prosecution simultaneously against the workman for the same incident. However, it is to be mentioned here that the said contention was raised on behalf of the workman at the time of deciding the preliminary issue and the same was considered and answered against the workman. So, there is no scope for reconsideration of the same.

9. On perusal of the materials on record, it is found that there is nothing on record to show that during the absence of the workman any unauthorized person was allowed to deal with the records of the branch, at the instance of the Branch Manager. As such, the contention raised in that respect by the learned advocate for the workman has no force.

10. Perused the record and considered the submissions made by the learned advocates for the parties.

In view of the submissions made by the learned advocates for the parties, I think it apropos to mention the principles settled by the Hon'ble Apex Court in a number of decisions in regard to the power of the Tribunal to interfere with punishment awarded by the competent authority in departmental proceedings.

In a number of decisions, the Hon'ble Apex Court have held that:-

"The jurisdiction of the Tribunal to interfere with the disciplinary matters or punishment cannot be equated with an appellate jurisdiction. The Tribunal cannot interfere with the findings of the Inquiry officer or competent authority where they are not arbitrary or utterly perverse. The power to impose penalty on a delinquent officer is conferred on the competent authority either by an Act of legislature or rules made under the proviso to Article 309 of the Constitution. If there has been an enquiry consistent with the rules and in accordance with principles of natural justice what punishment would meet the ends of justice is a matter exclusively within the

jurisdiction of the competent authority. If the penalty can lawfully be imposed and is imposed on the proved misconduct, the Tribunal has no power to substitute its own discretion for that of the authority. The adequacy of penalty unless it is malafide is certainly not a matter of the Tribunal to concern itself with. The Tribunal also cannot interfere with the penalty if the conclusion of the Inquiry officer or the competent authority is based on evidence even if some of it is found to be irrelevant or extraneous to the matter."

The Tribunal also cannot interfere with the penalty if the conclusion of the enquiry officer or the competent authority is based on evidence even if some of it is found to be irrelevant or extraneous to the matter."

It is also settled by the Hon'ble Apex Court that:-

"A review of the above legal position would establish that the disciplinary authority and on appeal, the appellate authority, being fact finding authorities have exclusive power to consider the evidence with a view to maintain discipline. They are invested with the discretion to impose appropriate punishment keeping in view the magnitude or gravity of the misconduct. The High Court Tribunal, while exercising the power of judicial review, cannot normally substitute its own conclusion on penalty and impose some other penalty. If the punishment imposed by the disciplinary authority or the appellate authority shocks the conscience of the High Court Tribunal, it would appropriately mould the relief, either directing the disciplinary/appellate authority to reconsider the penalty imposed, or to shorten the litigation, it may itself, in exceptional and rare cases, impose appropriate punishment with cogent reasons in support thereof."

11. Keeping in view the settled principles as mentioned above, now, the present case in hand is to be considered.

On perusal of the record, it is found that the findings of the enquiry officer are based on the evidence on record of the departmental enquiry. The enquiry officer has analyzed the evidence on the record of the departmental enquiry in a rational manner and has assigned reasons in support of his findings. It is also found that the findings of the enquiry officer are not as such, which cannot be arrived at by a reasonable man on the materials on record of the departmental enquiry. It is not a case of total absence of evidence on record of the enquiry or that the findings of the enquiry officer are totally against the evidence on record. Hence, the findings of the enquiry officer cannot be said to be perverse.

12. So far the question of proportionality of the punishment is concerned, it is found that grave misconduct of acts of not serving the Bank honestly and faithfully and knowingly acting detrimental to the interest of the Bank have been proved against the workman in a properly conducted departmental enquiry. Hence,

punishment of dismissal of the workman from services cannot be said to be shockingly disproportionate. From the facts and circumstances of the case, it is found that there is no scope to interfere with the punishment imposed against the workman. Hence, it is ordered:-

ORDER

The action of the management of Maharashtra Gramin Bank, Nanded in awarding punishment of dismissal from service w.e.f. 19.03.2010 to Shri Bajranglal R. Pariyal is legal and justified. The workman is not entitled to any relief.

J. P. CHAND, Presiding Officer

नई दिल्ली, 10 नवम्बर, 2014

का.आ. 2924.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, नागपुर के पंचाट (संदर्भ संख्या 12/2011) को प्रकाशित करती है जो केन्द्रीय सरकार को 30/10/2014 को प्राप्त हुआ था।

[सं. एल-12011/51/2010-आईआर (बी-1)]

सुमिति सकलानी, अनुभाग अधिकारी

New Delhi, the 10th November, 2014

S.O. 2924.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 12/2011) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the State Bank of India, and their workmen, received by the Central Government on 30/10/2014.

[No. L-12011/51/2010-IR(B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

**BEFORE SHRI J. P. CHAND, PRESIDING OFFICER,
CGIT-CUM-LABOUR COURT, NAGPUR**

Case No. CGIT/NGP/12/2011

Date: 17.10.2014.

Party No.1 : The Asstt. General Manager,
(Administration)
State Bank of India,
Administrative Office,
S.V. Patel Road, PB No. 37,
Nagpur-440001.

Versus

Party No.2 : The Zonal Secretary,
State Bank Workers Organization.
542, Dr. Munje Marg,
Congress Nagar, Nagpur-12

AWARD

(Dated: 17th October, 2014)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of State Bank of India and their workman, Shri M.R. Deshmukh, for adjudication, as per letter No.L-12011/51/2010-IR (B-I) dated 24.05.2011, with the following schedule:-

"Whether the action of the management of State Bank of India, Nagpur in imposing the punishment of bringing down to lower stage in the scale of pay by two stages on Shri M.R. Deshmukh vide their order dated 19.01.2009, is legal and justified? To what relief is the workman entitled?"

2. On receipt of the reference, parties were noticed to file their respective statement of claim and written statement, in response to which, the workman, Shri M.R. Deshmukh, ("the workman" in short) through his union, "State Bank Workers Organisation", ("the union" in short) filed the statement of claim and the management of State Bank of India, ("party no.1" in short) filed the written statement.

The case of the workman as presented by the union in the statement of claim is that the workman while working as a senior Assistant at Itwari branch of the party no.1, the Disciplinary Authority issued a charge sheet against him on 12.01.2007, for certain lapses during the period from 01.04.2002 to August, 2004 and the workman submitted his explanation to the charge sheet and again a second charge sheet was issued against the workman on 24.05.2007 and the workman submitted his explanation to the said charge sheet also and the Disciplinary Authority appointed an Enquiry Officer to conduct the disciplinary enquiry and the Enquiry Officer conducted the enquiry on various dates and a copy of the report of the Enquiry Officer was forwarded to the workman by the Disciplinary Authority for his comments and the workman submitted his reply to the same and without giving any second show cause notice, the Disciplinary Authority passed the final order of punishment on 19.01.2009 and the workman preferred an appeal against the order of punishment, but the same was rejected by the appellate authority. It is

further pleaded by the union on behalf of the workman that the Disciplinary Authority in agreement with the findings of the Enquiry Officer, imposed the punishment of bringing down to lower stage in the scale of pay by two stages, for the partly proved charge against the workman and the Enquiry Officer in his report did not clarify as to which part of the charge levelled against the workman was proved and the plain reading of the charges levelled against the workman reveals that a single charge has been divided into three allegations and party no.1 failed to prove the charges and the Disciplinary Authority also did not throw light on the aspect of the proved part of the allegations under item nos. (i) & (ii) of the charge and on the basis of such ambiguous conclusion, the Disciplinary Authority imposed the heavy punishment and the Enquiry Officer did not conduct the enquiry fairly or properly and violated the principles of natural justice and denied reasonable opportunity to the workman and simply placing the documents on record and using them against the workman is not sufficient and the documents should be authenticated by following the due procedure and then only, the documents could be referred against the workman for establishing the charge against him and in this case, the management representative produced the documents, but the documents were not proved and established properly in the departmental enquiry and no witness was produced to prove those documents or to show the relevance of the contents of those documents and as such, those documents could not be called as legal documents and the Enquiry Officer relied on such illegal documents and weighed his findings on such unproved documents and the findings on the basis of such invalid documents are perverse and bad in law and the punishment imposed on the basis of such illegal documents is not tenable in law and is liable to be declared void. It is further pleaded that the major defect in the enquiry was that the Enquiry Officer disallowed the production of the relevant documents which were in the possession of the bank, through the said documents were demanded by the defence during the course of the enquiry and the refusal of the Enquiry Officer to direct the bank for production of the documents caused serious prejudice to the workman in proving his innocence and it was the entire responsibility of the Chief Manager and the Manager (Accounts) to control and monitor the PPF transactions/statement, the same being an important Government business, which was liable for penal interest diminishing the profit of the branch, but the concerned officers gave secondary importance to PPF work and the services of the clerk attending the PPF business was utilized on the desks related to the customers, to avoid public nuisance, as a result of which, the day to day work of PPF transactions was hampered and the record of such work was available in the computer system, but that record was denied and documents regarding submission of charge sheets against the Chief Manager and Manager

(Accounts) for the lapses committed by them were also not made available to the workman and the matter of heavy penalty was the main cause of submission of the charge sheet, but from the record, it can be found that payment of penalty was the routine practice in the branch for years together, before and after the period, mentioned in the charge sheet, but the relevant records were not placed on the record of the enquiry and the workman had no control over the irregularities, as he was not managing the affair of Itwari branch and it was the responsibilities of the higher authority and from the evidence adduced in the enquiry by the management, it can be held that the charges levelled against the workman were not at all proved and there are reasons to believe that the workman was not given the responsibility of the PPF desk during the period as mentioned in the charge sheet and the enquiry was conducted unfairly by the Enquiry Officer and even though, there was no valid evidence in support of the charges, the Enquiry Officer submitted his findings that the charge was partially proved and the Disciplinary Authority accepted the findings of the Enquiry Officer in its totality and on the basis of such perverse findings, the punishment was imposed on the workman, without giving him the second show cause notice and it is necessary to quash the punishment imposed against the workman.

3. In the written statement, the party no.1 denying all the adverse allegations made in the statement of claim has pleaded inter-alia that an "individual" dispute has been given the colour of "Industrial" dispute and the alleged dispute is an individual dispute, as there is no general commonality of interest and the alleged issue affects only one workman and the alleged dispute does not fall within the meaning of Section 2(k) of the Act and as such, the Tribunal has no jurisdiction to entertain the matter and to adjudicate the same, unless the union conclusively proves that the dispute has been collectively espoused by the union after passing of the resolution in the General Body meeting of the union and appreciable number of the workmen are treating the cause of the individual workman as their own cause and in any case the workman has already taken voluntary retirement from services w.e.f. 15.10.2011 and therefore, this reference does not survive and the same is liable to be disposed of without any order on merits.

It is further pleaded by party no.1 that the workman was working at Itwari Branch as a senior Assistant and the workman while working on PPF desk was allotted work of reporting PPF transactions sent by branches to Government Accounts Department (GAD), CBD, Belapur, as Itwari Branch was a focal point branch for consolidation and reporting to GAD, for the period from 01.04.2002 to 31.03.2004 and April 2004 to August, 2004 and penalty of Rs. 19,77,688/- and Rs. 3,25,18,853/- were levied for delay in reporting the transactions and the

workman did not report the pendency of the work to the Chief Manager and higher authorities and kept the statements pending unattended and because of the acts and omissions of the workman, the bank was then to incur a loss of Rs. 19,77,688/- for the period from 01.04.2002 to 31.03.2004 and Rs. 3.25 crore, for the period from April 2004 to August 2004, for the delay and charge sheets dated 12.01.2007 and 24.05.2007 were issued against the workman and the same were received by him and since the explanation submitted by the workman was found to be not satisfactory, it was decided to hold the departmental enquiry against him and the Enquiry Officer conducted the enquiry from 06.02.2008 to 01.09.2008 in 8 sittings, giving ample opportunity to the workman to defend his case and the workman attended the enquiry with his defence representative, Shri J.N. Kaware and the workman was also permitted to change his defence representative and to engage Shri S.L. Bhisikar by the Enquiry Officer and the workman was provided with all the documents relied upon by the bank and he was also provided with copies of the relevant documents asked by him during the enquiry and he was permitted to verify the copies of the documents filed on the record of the enquiry proceedings from the original ones and he was given every opportunity to defend himself in the enquiry and he was given the copy of the enquiry proceedings on each and every date of the enquiry and the workman refused to examine any witness in support of his defence and he was given the opportunity to give his defence brief, after giving him the prosecution brief and he was also provided with the Enquiry Officer's report and he was advised to give submissions in that regard and the workman gave his reply on 10.01.2009 and the Disciplinary Authority, after considering the materials produced during the enquiry, the report of the Enquiry Officer and the reply given by the workman, passed the final order on 19.01.2000, imposing a penalty of mere bringing down to lower stage in the scale of pay by two stages and the workman preferred an appeal dated 01.03.2009, against the order of punishment and the Appellate Authority gave personal hearing to the workman on 30.03.2009 and thereafter only, the appellate authority passed an order rejecting his appeal and it had complied with all the principles of natural justice, while conducting the enquiry against the workman and the Enquiry Officer has given justifiable reasons for holding the charges to have been partially proved against the workman and having regard to the gross misconduct of the workman, the final order imposing the mere punishment of bringing down to lower stage in the scale of pay by two stages was passed and the punishment imposed is the lesser one, as compared to the gross misconduct committed by him and in any case, the same is not shockingly disproportionate to the misconduct committed by the workman and the punishment does not warrant any interference.

4. In the rejoinder, the union on behalf of the workman has denied the pleadings made in the written statement by party no.1 and has reiterated the facts mentioned in the statement of claim.

5. As in this case, the punishment has been inflicted upon the workman after holding of a departmental enquiry, the validity or otherwise of the departmental enquiry was taken up for consideration as a preliminary issue and by order dated 22.05.2014, the departmental enquiry conducted against the workman was held to be legal, proper and in accordance with the principles of natural justice.

6. It is necessary to mention here that both the parties did not make any oral argument and submitted their respective written notes of argument.

7. In the written notes of argument, it was submitted by the learned advocate for the workman that the plain reading of the charges levelled against the workman reveals that a single charge has been divided into three charges, but except some minor differences, the nature and wordings of each charge are the same and the Enquiry Officer held the charge No.3 not to have been proved and charge Nos. 1 and 2 to have been partially proved and it is crystal clear from the findings of the Enquiry Officer that management have no record or evidence so as to prove the allegations of keeping the PPF statements pending and not reporting the delay to the higher authorities and when the contents of the three charges levelled against the workman were exactly the same and it was found by the Enquiry Officer that charge No.3 was not proved, then it is not known as to how contrary to his own findings in respect of charge No.3, the Enquiry Officer held the charge Nos. 1 and 2 to be partially proved and it is obvious that the findings of the Enquiry Officer in respect of charge Nos. 1 and 2 are perverse and the punishment imposed against the workman is harsh and disproportionate.

Apart from the contentions as mentioned above, the learned advocate for the workman has mentioned the facts and circumstances of the case in details to show that the departmental enquiry conducted against the workman was illegal, unfair and not in accordance with the principles of natural justice.

It is to be mentioned here that as already mentioned above, by order dated 22.05.2014, the departmental enquiry conducted against the workman has already been held to be legal, proper and in accordance with the principles of natural justice, so, there is no question of considering the submissions made by the learned advocate for the workman in regard to the same again.

8. Per contra, in the written notes of argument, it was submitted by the learned advocate for the party no.1 that the Enquiry Officer has very carefully analyzed the

evidence on record and has dealt with the charges chronologically and after assigning valid reasons has held the charge Nos. 1 and 2 to have been partially proved and charge No. 3 not to have been proved against the workman and the findings of the Enquiry Officer are legal, proper and based on the materials placed on the record of the enquiry and there is no perversity in it and having regard to the gross misconduct of the workman, the Bank has rightly passed the final order imposing the mere punishment of bringing down to lower stage in the scale of pay by two stages and the punishment awarded to the workman is not even commensurate, but lesser one as compared to the gross misconduct committed by him and in any case, the same is not shockingly disproportionate and as such, there is no scope for the Tribunal to interfere with the same and the workman is not entitled to any relief.

In support of the submissions, the learned advocate for the party No. 1 placed reliance on the decisions reported in AIR 2003 SC-1571(Chairman cum Managing Director, United Commercial Bank Vs. P.C.Kakkar), 2006 AIR SCW-5457(State Bank of India Vs. Ramesh Dinkar Punde) and AIR 2003 SC-1462(Regional Manager UPRTC, Etawah Vs. Hotilal)

9. Before delving into the merit of the case in hand, I think it proper to mention the principles as laid down by the Hon'ble Apex Court in the decisions cited by the learned advocate for the party No.1

In the decision reported in AIR 2003 SC-1571(supra), the Hon'ble Apex Court have held that:-

"The court should not interfere with the administrator's decision unless it was illogical or suffers from procedural impropriety or was shocking to the conscience of the court, in the sense that it was in defiance of logic or moral standards. The court would into the correctness of the choice made by the administrator open to him and the court should not substitute its decision to that of the administrator. The scope of judicial review is limited to the deficiency in decision making process and not the decision."

In the decision reported in 2006 AIR SCW-5457 (supra), the Hon'ble Apex Court have held that:-

"We must unequivocally state that the jurisdiction of the Tribunal to interfere with the disciplinary matters or punishment cannot be equated with an appellate jurisdiction. The Tribunal cannot interfere with the findings of the Inquiry officer or competent authority where they are not arbitrary or utterly perverse. The power to impose penalty on a delinquent officer is conferred on the competent authority either by an Act of legislature or rules made under the proviso to Art. 309 of the Constitution. If there has been an enquiry

consistent with the rules and in accordance with principles of natural justice what punishment would meet the ends of justice is a matter exclusively within the jurisdiction of the competent authority. If the penalty can lawfully be imposed and is imposed on the proved misconduct, the Tribunal has no power to substitute its own discretion for that of the authority. The adequacy of penalty unless it is malafide is certainly not a matter of the Tribunal to concern itself with. The Tribunal also cannot interfere with the penalty if the conclusion of the Inquiry officer or the competent authority is based on evidence even if some of it is found to be irrelevant or extraneous to the matter."

In the decision reported in AIR 2003 SC-1462 (supra), the Hon'ble Apex Court have held that:-

"If the charged employee holds a position of trust where honesty and integrity are inbuilt requirements of functioning, it would not be proper to deal with the matter leniently. Misconduct in such cases has to be dealt with iron hands. Where the person deals with public money or is engaged in financial transactions or acts in a fiduciary capacity, higher degree of integrity and trustworthiness is must and unexceptionable."

10. Keeping in view the settled principles as mentioned above, now, the present case in hand is to be considered.

On perusal of the record, it is found that the findings of the Enquiry Officer are based on the evidence on record of the departmental enquiry. The Enquiry Officer has analyzed the evidence on the record of the departmental enquiry in a rational manner and has assigned reasons in support of his findings. It is also found that the findings of the Enquiry Officer are not as such, which cannot be arrived at by a reasonable man on the materials on record of the departmental enquiry. It is not a case of total absence of evidence on record of the enquiry or that the findings of the Enquiry Officer are totally against the evidence on record. Hence, the findings of the Enquiry Officer cannot be said to be perverse.

11. So far the question of proportionality of the punishment is concerned, it is found that grave misconduct of willful insubordination or disobedience of lawful and reasonable order of the management and acts prejudicial to the interest of the Bank and negligence involving the Bank in serious loss have been proved against the workman in a properly conducted departmental enquiry. Hence, the punishment of bringing down to lower stage in the scale of pay by two stages on the workman cannot be said to be shockingly disproportionate. From the facts and circumstances of the case, it is found that there is no scope to interfere with the punishment imposed against the workman. Hence, it is ordered:-

ORDER

The action of the management of State Bank of India, Nagpur in imposing the punishment of bringing down to lower stage in the scale of pay by two stages on Shri S.R. Deshmukh vide their order dated 19.01.2009, is legal and justified. The workman is not entitled to any relief.

J. P. CHAND, Presiding Officer

नई दिल्ली, 10 नवम्बर, 2014

का.आ. 2925.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार आई एन जी बैंश बैंक लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, नागपुर के पंचाट (संदर्भ संख्या 17/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30/10/2014 को प्राप्त हुआ था।

[सं. एल-12012/77/2009-आईआर (बी-1)]

सुमिति सकलानी, अनुभाग अधिकारी

New Delhi, the 10th November, 2014

S.O. 2925.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 17/2010) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur now as shown in the Annexure in the Industrial Dispute between the management of the ING Vysya Bank Ltd., and their workmen, received by the Central Government on 30/10/2014.

[No. L-12012/77/2009-IR(B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

**BEFORE SHRI J.P.CHAND, PRESIDING OFFICER,
CGIT-CUM-LABOUR COURT, NAGPUR**

Case No. CGIT/NGP/17/2010

Date: 20.10.2014.

Party No. 1 : (a) The Vice President,
Head Employee Relations &
Disciplinary Authority,
ING Vysya Bank Ltd.,
22, M.G. Road,
Bangalore-1

(b) The Branch Manager,
ING Vysya Bank Ltd.,
Opp. Big Bazar, Wardha Road,
Nagpur.

Party No. 2 :	Shri Rolla Venkata Poonaiah, Plot No.16, Flat No.7, Krushnanand Apartment, 2nd Floor, Jainagar, Aurangabad-431005.
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AWARD

(Dated: 20th October, 2014)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of ING Vysya Bank Ltd. and their workman, Shri Rolla Venkata Poonaiah, for adjudication, as per letter No.L-12012/77/2009-IR (B-I) dated 17.02.2011, with the following schedule:-

"Whether the action of the management of ING Vysya Bank Ltd., in imposing the penalty of compulsory retirement vide their order dated 07/04/2007 on Shri Rolla Venkata Poonaiah Ex-Clerk is legal and justified? To what relief the workman is entitled?"

2. On receipt of the reference, parties were noticed to file their respective statement of claim and written statement, in response to which, the workman, Shri Rolla Venkata Poonaiah, ("the workman" in short) filed the statement of claim and the management of ING Vysya Bank Ltd., ("party no.1" in short) filed the written statement.

The case of the workman as presented in the statement of claim is that he came to be appointed by party no.1 on 10.12.1982, as a clerk and was posted to Aurangabad Branch and at the time of his appointment, the name of the Bank was Vysya Bank, but later on it became ING Vysya Bank Limited and he worked at Aurangabad branch from 1982 to 1987, with unblemished service record and in December, 1996, his work was appreciated for productivity standard and he was given promotion by party no.1 and was transferred to Nanded Branch and he also performed his work at Nanded Branch satisfactorily and in the year 2000, he was transferred from Nanded Branch to Nagpur branch and he performed his duties at Nagpur Branch to the utmost satisfaction of party no.1. The further case of the workman is that the party no.1 is registered under the Bombay Shops and Establishment Act and the party no.1 is an "industry", as defined under section 2(j) of the Act and as he was in the employment of party no.1 as a clerk, he was not having any authority to make an appointment, to sanction leave and he was working as per the directions of the Branch Manager and he was therefore, a "workman" as defined under section 2 (s) of the Act and the service conditions

of the employees of the party no.1 are governed by the Act, The Industrial Employment (Standing Orders) Act, 1946, ING Vysya banking (Discipline and Appeal) Regulation 2003 and various bipartite settlements arrived at by the union and the party no.1.

It is further pleaded by the workman that one Mr. S.S. Sarda, an insurance advisor of ING Vysya Life Insurance approached him for buying insurance from him, but he did not give any positive assurance and he took the policy from another marketing agent and being aggrieved, Mr. Sarda made numerous attempts to create problem for him and on 20.10.2005, Mr. Charudatta Deshpande came to deposit Rs. 550/- in the Account of Mr. S.S. Sarda and to credit this amount, Mr. Charudatta presented two currency notes of Rs. 500/- each and on that day, he was performing the duties of the cashier and he checked the notes and was suspicious about the authenticity of one of the currency notes of Rs. 500/-, so he discussed about the same with his colleague Mr. Devikar and Mr. Devikar also gave his opinion that the note appeared to be not authentic and after discussion with Mr. Devikar, he asked Mr. Charudatta to give a note of Rs. 50/- instead of currency note of Rs. 500/- and when Mr. Charudatta denied his request, he in very graceful manner denied to accept the deposit made by Mr. Charudatta and at about 3.00 PM, he went for a short break, and on his return, the Assistant Manager, Mr. Virendra asked him to accept the currency note tendered by Mr. Charudatta and he did the same as directed by the Asstt. Manager and requested the Asstt. Manager, Mr. Virendra to sign on the deposit challan of Mr. Charudatta and during the discussion between him and the Asstt. Manager, Mr. S.S. Sarda was inside the counter and Mr. Sarda started using dirty language at the pitch of his voice and tried to assault him and threaten his colleagues for intervention into the matter and also threatened of dire consequences and losing of their jobs in case of any intervention and Mr. Sarda threatened him saying, "Tu bahar chal, mai tuje gad dalunga" and he was also assaulted by Mr. Sarda and Mr. Devikar intervened and he saved himself by locking himself in the cash cabin and Mr. Virendra instead of controlling the situation, encouraged Mr. Sarda to lodge complaint by providing complaint book and email id and Mr. Virendra became aggrieved against him, as he asked Mr. Virendra to sign the challan and Mr. Sarda on 20.10.2005 sent email in the form of complaint to satishgg@ingvsysabank.com with a request to enquire into the matter, on 22.10.2005, the preliminary team came from the Regional Office, headed by Mr. G. Gosavi and preliminary investigation about the alleged incidence was made and the investigating team inquired from Mr. S.S. Sarda, Mr. Charudatta Deshpande, Mr. B. Virendra, Mr. Samir Damle, Mr. Bhagwatkar, Mr. Ashwin Galghate and Mr. Vidyanathan about the incident and without any

concrete proof and documentary evidence, the investigating team came to the conclusion that he misbehaved with the senior officer and on 07.12.2005, he was served with the charge sheet, under clauses 5c, 5d and 5j of the settlement, with the allegations of misbehaving with the customer and abusing the senior and on 03.01.2006, he submitted his reply to the charge sheet, denying the charges levelled against him and explained the actual and factual situations and the party no.1 directed to make enquiry by appointing Mr. B. Mahesh, as the enquiry officer and Mr. S.G. Gosavi, who had conducted the preliminary investigation as the management representative and the appointment of Mr. Gosavi as management representative was not proper and the enquiry officer started the enquiry on 28.06.2006 and he pleaded not guilty to the charges and the charge sheet was issued against him on the complaint made by Mr. Sarda and to his knowledge, Mr. Sarda had asked the party no.1 to settle the issue amicably with peace and harmony, but the enquiry officer continued the enquiry and on 18.08.2006, the enquiry officer recorded the statement of the witnesses and on that single day, the enquiry was concluded and the management representative, Mr. Satish G. Gosavi was examined as a witness no.1 and the examination of the management representative as a witness is not permitted under law, the enquiry officer adopted a faulty procedure and the evidence on record shows that he has been made a goat in the entire episode and on 18.08.2006 itself, without giving him any opportunity of examining defence witnesses, he was directed to give his defence statement and he gave his defence statement and the present enquiry officer did not cross examine him and the enquiry officer submitted his findings on 06.12.2006 and he was asked to give his written submission on the findings of the enquiry officer and the enquiry officer did not take into consideration the statement made by Mr. Sarda and other witnesses and the findings of the enquiry officer were supported by the evidence on record and the finding was perverse and the enquiry conducted against him was in violation and utter disregard to the principles of natural justice. It is also pleaded by the workman that on 19.01.2007, he was served with the show cause notice against the proposed punishment of compulsory retirement and on 01.02.2007, Mr. Sarda voluntarily withdrew his complaint and he filed his reply to the show cause notice on 04.02.2007 and he approached the disciplinary authority at Bangalore and requested to consider the matter sympathetically and not to impose harsh and disproportionate punishment and on 24.02.2007, Mr. Sarda gave another letter tendering apology for his complaint and also for withdrawal of his complaint and the party no.1 ought to have considered the apology letter of Mr. Sarda, while imposing the punishment of compulsory retirement upon him and his past service record was not considered by the authority while imposing the punishment.

without giving him any opportunity to explain about the same and on 07.04.2007, he was served with the punishment order of compulsory retirement and the punishment is too harsh and disproportionate and the same is nothing butolorable exercise of employer's right and his victimization and in view of the withdrawal of the complaint by Mr. Sarda, the entire exercise of departmental enquiry became redundant and he ought to have been exonerated or to have been given any other lesser punishment.

The workman has prayed for his reinstatement in service with continuity, full back wages and all consequential benefits.

The party no.1, denying all the adverse allegations made in the statement of claim, in the written statement has pleaded inter-alia that the workman on earlier six occasions had been punished for different misconducts like disobedience to his superiors, misbehavior, false LTC claims, unauthorized absence etc. and it is a public limited company and the service conditions of its employees are governed by Bipartite settlements and the workman was compulsorily retired from the services of the Bank, because of his misbehavior with Mr. Sarda, after conducting of a failed departmental enquiry and on 20.10.2005, Mr. Narudatta Deshpande came to the branch along with Mr. S. S. Sarda to deposit a sum of Rs. 550/- in the savings account of Mr. Sarda and when cash was tendered to the workman, he refused to accept the Rs. 500 currency notes abruptly and when Mr. Virendra, officer of the bank requested the workman to accept the currency note, as the same was a genuine one, the workman used unparliamentary words against the said officer and he also started arguing with Mr. Sarda, the customer and during the course of his argument the workman used filthy language such as "teri ma ki" against the customer and such act of the workman spoiled the image of the bank in the eyes of the public and Mr. Sarda filed a complaint against the workman and basing on the complaint, an investigation was conducted against the workman and the investigation confirmed the incidence of the averments made by the workman that the customer seduced him or assaulted him are not true and the investigation report did not reveal happening of any such incident and Mr. Virendra, the officer-in charge after verifying the genuineness of the currency note, requested the workman to accept the same and as the workman asked for its authentication in writing, the said officer signed on behalf and being aggrieved by the act of the workman, the customer demanded for the complaint book and as it was mandatory to give the complaint book on demand by the customer, the officer gave the customer the complaint book and 22.10.2005, the investigation was conducted into the incident and the investigating officer took statements of the staff, who were present on the date of the incident

and only after hearing everybody including the workman and on the basis of the statement obtained, the investigating officer submitted his report, confirming the incident and accordingly, charge sheet under para 5c, 5e and 5j was submitted by the disciplinary authority against the workman, for commission of gross misconduct and since the reply dated 03.01.2006 submitted by the workman was found not to be satisfactory, the disciplinary authority ordered for the enquiry against him and the appointment of Mr. Satish Gosavi as management representative and his examination as a witness in the enquiry were as per law and before awarding the punishment, the disciplinary authority provided the workman, the opportunity of personal hearing so as to enable him to explain in person against the proposed punishment of compulsory retirement and the workman appeared on 13.02.2007 before the disciplinary authority for the personal hearing and the disciplinary authority considered all the relevant factors including the past record of the workman before awarding the punishment and the workman had also filed an appeal before the appellate authority against the order of punishment and the appellate authority on merits rejected the same and the complainant, Mr. S.S. Sarda was examined as MW-3 in the departmental enquiry and he had confirmed the incident both in his examination in chief and cross examination by the workman himself and as such, the alleged withdrawal of the complaint by the complainant is irrelevant and the order of punishment passed by the disciplinary authority dated 07.04.2007 was acknowledged by the workman on 16.04.2007 and the domestic enquiry conducted against the workman was fair and proper and the same was conducted in accordance with the provisions of the bipartite settlement and the principles of natural justice and the enquiry officer analyzed the evidence on the record of the enquiry and found the workman guilty of the charges and the enquiry officer also fully considered the defence statement and the workman was given full opportunity to defend himself in the enquiry and the punishment imposed is commensurate with the charge proved against him in the domestic enquiry and the workman is not entitled to any relief.

4. As this is a case of compulsory retirement of the workman from service after holding of a domestic enquiry, the fairness or otherwise of the domestic enquiry was taken up as a preliminary issue for consideration and by order dated 11.07.2014, the departmental enquiry conducted against the workman was held to be legal, proper and in accordance with the principles of natural justice.

5. At the time of argument, it was submitted by the learned advocate for the workman that on 20.10.2005, the workman was threatened and assaulted by one Mr. Sarda, while he was on duty at the branch and the authority at the branch present at that time, instead of controlling the incident, encouraged Mr. Sarda to lodge

complaint against the workman and the workman acted in the interest of the Bank and suspecting the genuineness of the 500 rupees note tendered by the customer, asked the customer to give another note and it is clear from the evidence on record of the departmental inquiry that there is no concrete proof to show that the workman uttered filthy language and there was a preliminary investigation into the alleged incident and the statements of the witnesses recorded in the preliminary investigation were not produced in the enquiry and only selected statements were produced and it is clear from the evidence of Mr. Virendra, the Assistant Manager recorded in the inquiry that the workman did not utter any vulgar or unparliamentary words and it was Mr. Sarda, who threatened and provoked the workman and the workman was made the scapegoat and there are material inconsistencies in the evidence of the Mr. Sarda and the other witnesses examined by the management in the enquiry and the evidence of the witnesses is quite contradictory to each other and from the evidence on record of the enquiry, it cannot be said that the charges levelled against the workman were conclusively proved, but the Enquiry Officer without considering the evidence in its proper perspective and without any documentary proof, held the charges to have been proved against the workman and the findings of the Enquiry Officer are contrary to the evidence on record and therefore are perverse. It was further submitted by the learned advocate for the workman that Mr. Sarda on 01.02.2007 voluntarily withdrew his complaint and the workman requested the Disciplinary Authority to consider the matter sympathetically and not to impose a harsh and disproportionate punishment of compulsory retirement and again on 24.02.2007, Mr. Sarda gave a letter tendering apology for his lodging the complaint and also for withdrawing his complaint and the party No.1 should have taken into consideration such facts, before imposing the harsh and disproportionate punishment and the past service record of the workman was considered by the Disciplinary Authority at the time of imposing the punishment, without offering any opportunity to the workman to explain the same and the punishment of compulsory retirement from service imposed against the workman is too harsh and disproportionate and he was victimized on a false and baseless complaint and the workman is entitled for reinstatement in service with continuity, full back wages and all other consequential benefits.

6. Per contra, it was submitted by the learned advocate for the party No.1 that this Tribunal by order dated 11.07.2014 has already held the departmental enquiry conducted against the workman to be legal. Proper and in accordance with the principles of natural justice and in this case, the Enquiry Officer has analyzed the evidence on record of the enquiry including the defence evidence

properly and based his findings on the evidence on record of the enquiry and as such, the findings of the Enquiry Officer cannot be said to be perverse and Mr. Sarda made the complaint against the workman and basing on his complaint, the departmental enquiry was initiated against the workman and Mr. Sarda also appeared as a witness in the departmental inquiry on behalf of the management and against the workman and also gave evidence in support of the complaint made against the workman and the charges levelled against the workman were proved in the departmental inquiry and as such there was no question of consideration of the alleged withdrawal letter of Mr. Sarda, the same having no effect on the question of imposing the punishment and the workman was supplied with the copy of the enquiry report and served with the second show-cause notice and he was given personal hearing by the Disciplinary Authority, before imposition of the punishment and the Disciplinary Authority after taking into consideration the entire facts and circumstances of the case, the findings of the Enquiry Officer, the reply of the workman to the second show-cause notice, the submissions made by the workman during his personal hearing, the past service record of the workman and the gravity and seriousness of the misconducts proved against the workman, imposed the punishment of compulsory retirement from service against him and the punishment is neither harsh nor shockingly disproportionate and the same commensurate with the charges proved against the workman and for that, there is no scope to interfere with the punishment and the workman is not entitled to any relief.

7. In view of the submissions made by the learned advocates for the parties, I think it apropos to mention the principles settled by the Hon'ble Apex Court in a number of decisions in regard to the power of the Tribunal to interfere with punishment awarded by the competent authority in departmental proceedings.

In a number of decisions, the Hon'ble Apex Court have held that:-

"The jurisdiction of the Tribunal to interfere with the disciplinary matters or punishment cannot be equated with an appellate jurisdiction. The Tribunal cannot interfere with the findings of the Inquiry Officer or competent authority where they are not arbitrary or utterly perverse. The power to impose penalty on a delinquent officer is conferred on the competent authority either by an Act of Legislature or rules made under the proviso to Article 309 of the Constitution. If there has been an enquiry consistent with the rules and in accordance with principles of natural justice what punishment would meet the ends of justice is a matter exclusively within the jurisdiction of the competent authority. If the penalty can lawfully be imposed and is imposed on the proved misconduct, the Tribunal has no power to substitute its own discretion for

that of the authority. The adequacy of penalty unless it is malafide is certainly not a matter of the Tribunal to concern itself with. The Tribunal also cannot interfere with the penalty if the conclusion of the Enquiry Officer or the competent authority is based on evidence even if some of it is found to be irrelevant or extraneous to the matter.

The Tribunal also cannot interfere with the penalty if the conclusion of the Enquiry Officer or the competent authority is based on evidence even if some of it is found to be irrelevant or extraneous to the matter."

It is also settled by the Hon'ble Apex Court that:-

"A review of the above legal position would establish that the disciplinary authority and on appeal, the appellate authority, being fact finding authorities have exclusive power to consider the evidence with a view to maintain discipline. They are invested with the discretion to impose appropriate punishment keeping in view the magnitude or gravity of the misconduct. The High Court/Tribunal, while exercising the power of judicial review, cannot normally substitute its own conclusion on penalty and impose some other penalty. If the punishment imposed by the disciplinary authority or the appellate authority shocks the conscience of the High Court/Tribunal, it would appropriately mould the relief, either directing the disciplinary/appellate authority to reconsider the penalty imposed, or to shorten the litigation, it may itself, in exceptional and rare cases, impose appropriate punishment with cogent reasons in support thereof."

It is also settled beyond doubt that departmental enquiry is not bound by strict rules of Evidence Act, but by fair play and natural justice. Only total absence, but not sufficiency of evidence before Tribunal is ground for interference. If the enquiry has been properly held the question of adequacy or reliability of evidence cannot be canvassed before the court and in a departmental enquiry, penalty can be imposed on the delinquent officer on a finding recorded on the basis of "preponderance of probability".

8. Keeping in view the settled principles as mentioned above, now, the present case in hand is to be considered.

On perusal of the record, it is found that the findings of the Enquiry Officer are based on the evidence on record of the departmental enquiry. The Enquiry Officer has analyzed the evidence on the record of the departmental enquiry in a rational manner and has assigned reasons in support of his findings. It is also found that the findings of the Enquiry Officer are not as such, which cannot be arrived at by a reasonable man on the materials on record of the departmental enquiry. It is not a case of total

absence of evidence on record of the enquiry or that the findings of the Enquiry Officer are totally against the evidence on record. Hence, the findings of the Enquiry Officer cannot be said to be perverse.

9. So far the question of proportionality of the punishment is concerned, it is found that grave misconduct of refusal to obey the lawful and reasonable orders of the superiors and doing acts prejudicial to the interest of the Bank have been proved against the workman in a properly conducted departmental enquiry. Contention that Mr. Sarda, the complainant had withdrawn his grievances would not condone the misconduct. Hence, the punishment of compulsory retirement from service imposed against the workman cannot be said to be shockingly disproportionate. From the facts and circumstances of the case, it is found that there is no scope to interfere with the punishment imposed against the workman. Hence, it is ordered:-

ORDER

The action of the management of ING Vysya Bank Ltd., in imposing the penalty of compulsory retirement vide their order dated 07/04/2007 on Shri Rolla Venkata Pooniah Ex-Clerk is legal and justified. The workman is not entitled to any relief.

J. P. CHAND, Presiding Officer

नई दिल्ली, 10 नवम्बर, 2014

का.आ. 2926.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टेट बैंक ऑफ त्रावनकोर के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अरुणाकुलम के पंचाट (संदर्भ संख्या 1/2011) को प्रकाशित करती है जो केन्द्रीय सरकार को 30/10/2014 को प्राप्त हुआ था।

[सं. एल-12012/46/2009-आईआर (बी-I)]

सुमिति सकलानी, अनुभाग अधिकारी

New Delhi, the 10th November, 2014

S.O. 2926.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 1/2011) of the Central Government Industrial Tribunal-cum-Labour Court, Ernakulam now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the State Bank of Travancore, and their workman, which was received by the Central Government on 30/10/2014.

[No. L-12012/46/2009-IR(B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
ERNAKULAM**

Present : Shri.D.Sreevallabhan, B.Sc., LL.B, Presiding Officer

(Tuesday the 30th day of September, 2014/8th Asvina, 1936)

ID 1/2011

Workman : Shri P. Narayanan
Janatha Deposit Collector
State Bank of Travancore
Manjeri, Nova Pulpatta
PO Malappuram District Kerala
By M/s. H. B. Shenoy Associates

Management : The Manager
State Bank of Travancore
Manjeri Malappuram
District Kerala
By Adv Shri P. Ramakrishnan

This case coming up for final hearing on 23.09.2014 and this Tribunal-cum-Labour Court on 30.09.2014 passed the following:

AWARD

In exercise of the powers conferred by clause (d) of sub-section(1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government/Ministry of Labour vide its Order No-L-12012/46/2009-IR(B-I) dated 01.12.2010 referred the industrial dispute scheduled thereunder to this tribunal for adjudication.

2. The dispute is:

“Whether the action of the management of State Bank of Travancore, Manjeri Branch, in not allowing Shri P. Narayanan to continue to work as Jantha Deposit Collector, is justified or not? To what relief the concerned workman is entitled to?”

3. Workman filed claim statement by making the allegations that he was working as Janatha Deposit Collector at the Manjeri branch of the management bank after his appointment in their services w.e.f. 01.11.1976. While so in January, 2000 he had sought for leave on account of sickness from 04.01.2000 onwards by submitting leave application. After recovery from illness he sought permission to rejoin duty on 31.12.2012 by submitting an application with a medical certificate. But he was not allowed to join duty. In spite of repeated requests made afterwards to the Branch Manager and other higher authorities he was not permitted to join duty. Hence he filed WP(C) No.21704/2008 before the Hon’ble

High Court of Kerala and it was disposed of with a direction to the management to consider his representation within a period of one month. Pursuant to it management declined his request as per letter dated 03.09.2008 on the premise that he had abandoned work and the management stopped opening of Janatha Deposit Accounts. Such action of the management amounts to retrenchment. It is illegal as it was resorted to without complying with the provisions of Sections 25F and 25G and in violation of Section 33 of the Industrial Disputes Act. The allegation as to abandonment of service was not preceded by any enquiry and it is against the terms of the award of the Industrial Tribunal, Hyderabad in ID 14/1980 as modified by the Hon’ble Supreme Court of India as to the conditions of service of workman in the management bank. It tantamounts to unfair labour practice. Janatha Deposit Accounts are still being opened and operated and a substantial number of deposit collectors including those junior in service to the workman are in the regular services of the management. But he was without employment or job or income after his termination. Hence he is entitled to be reinstated in service with full back wages, continuity of service and other attendant benefits.

4. In the written statement management would contend that the workman has no right to raise the industrial dispute and the same is not maintainable. There is inordinate delay in raising the dispute and hence the same is liable to be rejected for that reason. For the collection of amounts from the public under the Janatha Deposit Scheme the management bank had appointed the workman as one of the agents on the basis of the agreement dated 30.10.1976 entered into between him and the bank. As per the terms of the agreement he should visit households/shops established in the area assigned to him at least once in a calendar month for canvassing and collecting deposits under the scheme. Pursuant to the agreement he had worked as deposit collector of the Manjeri branch of the bank. He had stopped the work of taking deposits after 30.12.1999. He had submitted a letter dated 04.01.2000 seeking leave on the ground of illness for an indefinite period and with a request to close the deposits so as to avoid inconvenience to the depositors. He did not submit any medical certificate or furnished any details about hospitalization or treatment. As per the terms of the said agreement janatha deposit collectors are not entitled for leave but eligible only for payment of commission for the amount of deposits collected by them. He had not nominated a representative to continue the operation of the accounts as per the terms of the agreement. It had resulted in the decline in the janatha deposit accounts from June 1999 onwards. The workman had voluntarily abandoned the work in violation of the terms of the agreement. The action of the management in declining the request of the workman does not amount to retrenchment and bank has not violated any of the

provisions of the Industrial Disputes Act. Since the janatha deposit scheme was not beneficial to the bank it was allowed to continue only in branches where it was active by issuing circular No.38/1998 dated 03.07.1998. Manjeri branch had closed all janatha deposit schemes in January, 2000 due to the withdrawal of the amounts by the account holders. No account was opened and no deposit collector was employed in the Manjeri branch after the abandonment of work by the workman. As per the decision of the Hon'ble Supreme Court the deposit collectors are to be treated as workman for the limited purpose of the Industrial Disputes Act and they cannot claim service benefits on par with the regular employees of the bank. They are governed by the terms of the agreement by which they are engaged. They are not entitled for any leave. The workman left his work on his volition and thereby the agreement became unenforceable. Section 33 of the Industrial Disputes Act has no application to this industrial dispute. The management has not resorted to any unfair labour practice. There is no illegal denial of employment of the workman by the management bank. The janatha deposit collectors are entitled to undertake other works as it is only a part-time work. The workman is attending profitable engagements and it may be the reason for not raising the industrial dispute for a long period. It cannot be believed that he was under treatment for three years. As the workman had abandoned his work in violation of the terms of the contract he is not entitled to be reinstated in service or for any other relief.

5. Workman filed replication denying the contentions in the written statement and reaffirming the allegations in the claim statement.

6. For the purpose of deciding the dispute evidence, both oral and documentary, was adduced from both sides. For the workman he was examined as WW1 and Exts.W1 to W11 were marked. On the side of the management one witness was examined as MW1 and Exts.M1 and M2 were marked.

7. The points for determination are:

- Whether the industrial dispute is maintainable?
- Whether the action of the management in not allowing the workman to continue to work as janatha deposit worker amounts to retrenchment which requires compliance of the provisions of the Industrial Disputes Act?
- What relief, if any, the workman is entitled?

8. Point No.(i):—Maintainability is challenged on the grounds of inordinate delay in raising the industrial dispute and the incompetency of the workman to raise the dispute. At the time of argument there was no attempt on the part of the learned counsel for the management to substantiate any of those grounds challenging the maintainability.

9. Workman was not permitted to rejoin duty on 31.12.2002 after refusing the request made by him by submitting the original of Ext.W2 series. The dispute was raised in the year 2009. There is delay in raising the dispute, but that by itself is not sufficient to hold that the claim has become stale in view of the several representations made to the Branch Manager and to the other higher authorities seeking permission to rejoin duty. It is because of the failure of the management bank to grant or refuse permission that necessitated him to approach the Hon'ble High Court of Kerala by filing WP(C) No.21704/2008(H). It was disposed of on 11.08.2008 with a direction to the management to pass orders on his request within a period of one month from that date in the light of the relevant rules governing the appointment of daily deposit collection agents. It was on 03.09.2008 management declined the request of the workman to rejoin duty and the same is evidenced by Ext.W11. The industrial dispute was raised in the year 2009. Hence there is reason for the delay in raising the industrial dispute and it cannot be held that it is not maintainable due to the delay in raising the dispute.

10. It is not specifically contended in the written statement as to why the workman is not entitled to raise the industrial dispute. In the decision reported in Indian Banks Association Vs. Workmen of Syndicate Bank and others AIR 2001 SC 946 it was held that tiny deposit collectors are workmen coming within the purview of the definition under Section 2(s) of the Industrial Disputes Act. As it is a case of denial of request for joining duty it can be said to be termination of his service enabling him to raise the industrial dispute. Hence it cannot be held that the industrial dispute is not maintainable for the reason that the workman is not competent to raise such a dispute.

11. Point No.(ii):—Workman was absenting himself from duty continuously after submitting leave application dated 04.01.2000, copy of which was marked as Ext.W1. After seeking leave for an indefinite period request is also made in Ext.W1 to close the accounts of the daily depositors. Afterwards he came to rejoin duty only on 31.12.2002. He was not allowed to rejoin duty and he was continuously making representations to permit him to rejoin duty. His request was declined as per Ext.W11 dated 03.09.2008. Whether the denial of the management bank to re-engage him amounts to retrenchment is the question which requires consideration in this case. It is the case of the management bank that he had abandoned the service in violation of the terms of the agreement executed by him on 30.10.1976 for his engagement, copy of which was marked as Ext.M1. It was argued by the learned counsel for the management that as per the terms of the agreement the management has got the right to terminate him at any time without any notice if he acts in violation of the terms

of the agreement and to substantiate it reference was made to clause 4(i) of the agreement which reads thus:

"4. The Bank may without notice terminate the agency at any time, if the Deposit Collector:

- (i) commits breach of any of the terms and/or conditions of this Agreement and of the Rules and Regulations referred to above and also of other such directions as may be issued from time to time by the Bank in this behalf;"

It was further argued by him that the workman is not eligible for any leave and he had acted in violation of the terms of the agreement which entitles the management to terminate his service without any notice. By making reference to clause 10 of Annexure-A in Ext. M1 it was argued by him that the deposit collector had to nominate a representative while he was absenting from duty on account of illness. Clause 10 of Annexure – A reads as follows:-

"10. In case of continued absence of the Deposit Collector on account of illness or for any other reason for which he/she has been permitted by the Bank to be so absent, the Deposit Collector shall nominate a representative acceptable to the Bank who will discharge the duties of the Deposit Collector during the period of the absence of the Deposit Collector on the strength of a temporary identity card which will be issued to him by the Bank. The Deposit Collector shall be responsible for all acts of omission, commission etc., of the temporary agent and also any default or negligence on his part and shall in this respect be answerable to the Bank".

The workman instead of nominating a representative made request to close the accounts. It is detrimental to the interest of the bank. He is not entitled to avail any leave as per the terms of Ext.M1 and make request to close the accounts. Hence the management has got the right to terminate the workman without any notice.

12. In the above referred decision the Hon'ble Supreme Court after finding that the tiny deposit collectors are workmen coming within the purview of the definition under Section 2(s) of the Industrial Disputes Act it was held that his pay, allowances and other service conditions cannot be that of a regular employee. The service conditions are governed through independent agreement or as per the provisions contained in the Tiny Deposit Scheme. Since the workman had violated the terms of the agreement entered into by him with the management bank the latter has got the right to terminate him without any notice. It does not amount to retrenchment which necessitates the compliance of the requirements under Section 25F of the Industrial Disputes Act.

13. No evidence is adduced to prove that there is violation of Section 33 of the Industrial Disputes Act. Nothing was also argued by the learned counsel for the workman to satisfy the same.

14. Since the workman was terminated from service for the violation of the terms of the agreement by abandonment of work without making any nomination it cannot be said that it would amount to retrenchment and hence requires compliance of the requirements under Section 25F of the Industrial Disputes Act.

15. Point No.(iii):—In the result an award is passed holding that the action of the management in denying the request of the workman to continue in service as ~~Janardhan~~ Deposit Collector is justified and hence he is not entitled to any relief.

The award will come into force one month after its publication in the Official Gazette.

Dictated to the Personal Assistant, transcribed and typed by her, corrected and passed by me on this the 30th day of September, 2014.

D. SREEVALLABHAN, Presiding Officer

APPENDIX

Witness for the workman

WW1	01.01.2014	Shri P Narayanan
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Witness for the management

MW1	03.07.2014	Shri Ajayan P
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Exhibits for the workman

W1	-	True copy of letter dated 4.01.2000 addressed to the Manager, State Bank of Travancore, Manjeri by the workman.
W2	-	True copy of letter dated 31.12.2002 addressed to the Manager, State Bank of Travancore, Manjeri by the workman.
W2(a)	-	True copy of Medical Certificate dated 31.12.2002 issued by Dr. K. P. Saravanadasan, A Class Regd. Medical Practitioner to the workman.
W3	-	True copy of the letter dated 16.04.2003.
W4	-	True copy of letter dated 05.11.2003 addressed to the Regional Manager, State Bank of Travancore, Kozhikode by the workman.
W5	-	Postal Receipts Nos. RLAD A 8890 and RLAD A 8891 dated 05.11.2003
W6	-	True copy of the letter dated 19.04.2003 addressed to the Manager, State Bank of Travancore, Manjeri by the workman.

W7 - True copy of the letter dated 02.04.2007 addressed to the Regional Manager, State Bank of Travancore, Kozhikode by the workman.

W8 - Postal acknowledgement Card addressed to the Assistant General Manager-III, State Bank of Travancore, Kozhikode.

W8(a) - Postal acknowledgement Card addressed to the Manager, State Bank of Travancore, Manjeri.

W9 - True copy of Judgment dated 11.08.2008 in WP(C) No.21704/2008(H) of the Hon'ble High Court of Kerala, Ernakulam.

W10 - True copy of letter dated 29.08.2008 addressed to the Regional Manager, State Bank of Travancore, Kozhikode by the workman.

W11 - Letter No.AGM III/KKD/13 dated 03.09.2008 issued by the Assistant General Manager-III, State Bank of Travancore, Zonal Office, Kozhikode to the workman.

Exhibits for the management

M1 - True copy of the agreement dated 30.10.1976 entered into between the management bank and the workman.

M2 - True copy of Circular No.38/98 dated 03.07.1998 issued by the General Manager (P & D).

नई दिल्ली, 10 नवम्बर, 2014

का.आ. 2927.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार उत्तर पश्चिम रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जयपुर के पंचाट (संदर्भ संख्या 42/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 10/11/2014 को प्राप्त हुआ था।

[सं. एल-41011/68/2013-आईआर (बी-1)]

सुमिति सकलानी, अनुभाग अधिकारी

New Delhi, the 10th November, 2014

S.O. 2927.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 42/2013) of the Central Government Industrial Tribunal-cum-Labour

Court, Jaipur as shown in the Annexure in the Industrial Dispute between the management of North West Railway, and their workmen, received by the Central Government on 10/11/2014.

[No. L-41011/68/2013-IR(B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JAIPUR

BHARAT PANDEY, PRESIDING OFFICER

I.D.42/2013

Reference No.L-41011/68/2013-IR(B-I)

dated: 31.7.2013

The President

North West Railway Karmachari
Sangh, 8/A, D.A.V. College Staff
Colony, Bayawar Road, Ajmer.

Versus

Dy. Chief Electrical Engineer (Factory)
North West Railway
Ajmer.

Present :—

For the Applicant Union : None.

For the Non-applicant : Sh. Purnendra Sharma, Adv.

AWARD

23.9.2014

1. The Central Government in exercise of the powers conferred under clause (d) of Sub Section 1 & 2(A) of Section 10 of the Industrial Disputes Act 1947 has referred the following Industrial dispute to this tribunal for adjudication:-

“Whether the action of the management of Dy. Chief Electrical Engineer (Factory), N.W.R., Ajmer for fresh exam disregarding the claim of four candidates (1) Sh. M.N.Qureshi, (2) Sh. Balveer Prakash Sharma, (3) Sh. Vikram Singh and (4) Sh. Parveen Kumar Ojha, who had cleared the earlier exam is legal & justified? To what relief the said workmen are entitled?”

2. Pursuant to the receipt of the reference order, registered notices were sent to both the parties on 3.9.2013 fixing 16.1.2014 for filing the claim. On 16.1.2014 notices returned served against both the parties & acknowledgement connected therewith is on record. On 16.1.2014 none appeared from applicant side, authority letter for opposite party was filed by Sh. Purnendra Sharma, Advocate. In the interest of justice case was adjourned

on 16.1.2014 by court & opportunity was given to applicant for filing statement of claim on 8.4.2014. On 8.4.2014 both the parties were absent & presiding officer was on leave hence, again opportunity was given to the applicant for filing statement of claim on 17.6.2014. On 17.6.2014 learned counsel for opposite party was present. Neither anyone appeared from applicant side nor statement of claim was filed hence, order to proceed ex-parte against the applicant was passed & case was fixed for ex-parte evidence of opposite party on 10.7.2014.

3. On 10.7.2014 also applicant was absent & learned counsel for opposite party was present. Learned Advocates were on strike hence, 23.7.2014 was date fixed for ex-parte evidence/hearing against applicant. On 23.7.2014 learned advocates were on strike & both the parties were absent. In the interest of justice case was fixed on 30.7.2014 for ex-parte hearing. On 30.7.2014 none appeared from both the side. On next dates 30.7.2014, 7.8.2014 & 4.9.2014 also there were advocate's strike in continuation of indefinite strike. None appeared from both side on these dates & on 4.9.2014, case was adjourned by the court in interest of justice for 19.9.2014 for ex-parte hearing against applicant. On 19.9.2014 there was no advocate's strike but none appeared from both sides hence case was reserved for award. Looking into above fact & circumstances & the result of continuous proceeding since 3.9.2013 till date about absence of statement of claim despite provided opportunity & continuous none appearance of applicant the case was reserved for award.

4. It appears from entire proceeding taken up by the tribunal to adjudicate the reference that applicant is not interested in bringing the claim for adjudication before the tribunal though the applicant has been personally served with notice by registered post. It is also pertinent to note that as per order dated 31.7.2013 of the Ministry it was expected from the applicant on his own motion to file the statement of claim within 15 days from date of receipt of reference from Ministry but neither on his own motion nor on the service of notice send by the tribunal applicant has filed the claim. Under these circumstances, no material could be brought on record for adjudication of the reference order under consideration on merits. It appears that applicant is not willing & interested to contest the case further, therefore, "No Claim Award" is passed in this matter. The reference under adjudication is answered accordingly.

5. Award as above.

BHARAT PANDEY, Presiding Officer

नई दिल्ली, 10 नवम्बर, 2014

का.आ. 2928.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसार में केन्द्रीय सरकार एफ. सी. आई.

के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के लीए अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, कानपुर के पंचाट (संदर्भ संख्या 21/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 10/11/2014 को प्राप्त हुआ था।

[सं. एल-22011/28/2011-आईआर (सीएम-II)]

बी. एम. पटनायक, डेर्सक अधिकारी

New Delhi, the 10th November, 2014

S.O. 2928.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 21/2013) of the Central Government Industrial Tribunal-cum-Labour Court, Kanpur as shown in the Annexure in the Industrial Dispute between the management of Food Corporation of India, and their workman, received by the Central Government on 10/11/2014.

[No. L-22011/28/2011-IR(CM-II)]

B. M. PATNAIK, Desk Officer

ANNEXURE

BEFORE SRI RAM PARKASH, HJS, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, KANPUR

Industrial Dispute No. 21 of 2013

Between :

The General Secretary,
Food Corporation of India, Handling Workers Union,
86/51, Arakshan Road, Paharganj,
New Delhi.

And

The Executive Director,
Food Corporation of India,
A-2A, A-2B,
Sector 24, Noida, U. P.

AWARD

1. Central Government, MoL, New Delhi, vide Notification No. L-22,011/28/2011-I.R. CM-II, dated 27.02.2013, has referred the following dispute for adjudication to this tribunal:

2. Whether the worker of the Corporation working in the 14 Depots (list attached) under the state of Uttar Pradesh can discharge their duties at the rail heads where the work of loading unloading and transportation of goods are done? What relief the workers of these depots are entitled to?

3. In the instant case after receipt of the reference order neither the Union nor the person representing the union have appeared before the tribunal despite service

of registered notice. Rather one application under the signature of Joint Secretary of the Union was received informing the tribunal that they are ‘inclined to get amended the reference order. The application is neither proper nor valid as the same has not been signed by the General Secretary of the Union raising the dispute.

Since the Union has failed to file their statement of claim in the instant case despite availing of sufficient opportunity, therefore, the reference is liable to be answered against the Union and in support of the management.

Accordingly the reference is decided against the Union for want of pleadings and proof and in favor of the management.

RAM PARKASH, Presiding Officer

नई दिल्ली, 10 नवम्बर, 2014

का.आ. 2929.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एफ. सी. आई. ए प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार राष्ट्रीय औद्योगिक अधिकरण एवं श्रम न्यायालय, कोलकता के पंचाट (संदर्भ संख्या 2/2006) को प्रकाशित करती है जो केन्द्रीय सरकार को 10/11/2014 को प्राप्त हुआ था।

[सं. एल-22012/180/2000-आईआर (सीएम-II)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 10th November, 2014

S.O. 2929.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. N.T. 02/2006) of the Central Government National Industrial Tribunal-Labour Court, Kolkata as shown in the Annexure in the Industrial Dispute between the management of Food Corporation of India, and their workman, received by the Central Government on 10/11/2014.

[No. L-22012/180/2000-IR(CM-II)]

B. M. PATNAIK, Desk Officer

ANNEXURE

NATIONAL INDUSTRIAL TRIBUNAL AT KOLKATA

Reference No. NT -02 of 2006

Parties : Employers in relation to the management of Food Corporation of India

AND

Their workmen

Present : Justice DIPAK SAHA RAY, Presiding Officer

Appearance :

On behalf of the Management : Mr. Uttam Kumar Mondal, Ld. Counsel

On behalf of the Workmen : None

State: West Bengal Industry: Food & Public Distribution

Dated: 21st October, 2014

AWARD

By Order No.L-22012/180/2000-IR(C-II) dated 15.11.2006 and subsequent order of even number dated 10.01.2014 the Government of India, Ministry of Labour in exercise of its powers under Section 7B read with Section 10(IA) of the Industrial Disputes Act, 1947 referred the following dispute to this National Tribunal for adjudication:

“Whether FCI is having scientific system of for assessing storage loss which has been caused due to number of factors such as temperature, moisture, micro organisms, insects, rats, birds, insecticides, storage unworthiness of the godown, draige etc. ? If not, what is its effect upon the fixing of, responsibility under its employees while regularizing the storage losses?”

2. When the case was taken up today, none appears on behalf of the union, though the management is represented by its Ld. Counsel. It appears from the record that the union is absent for the last three consecutive dates. The union even has not taken any step to proceed with this reference inspite of specific order of the Tribunal on the last date i.e., on 14.08.2014.

3. Considering the above facts and circumstances, it appears that the union is not at all interested to proceed with the case further. So, no useful purpose will be served in keeping the matter pending. ,

4. Accordingly, the instant reference case is disposed of by passing a “No Dispute Award”.

Dated, Kolkata,
The 21st October, 2014.

Justice DIPAK SAHA RAY, Presiding Officer

नई दिल्ली, 10 नवम्बर, 2014

का.आ. 2930.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एस. ई. सी. एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, कोलकता के पंचाट (संदर्भ संख्या

21/2000) को प्रकाशित करती है जो केन्द्रीय सरकार को 10/11/2014 को प्राप्त हुआ था।

[सं. एल-22012/370/1999-आईआर (सीएम-II)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 10th November, 2014

S.O. 2930.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 21/2000) of the Central Government Industrial Tribunal-cum-Labour Court, Kolkata as shown in the Annexure in the Industrial Dispute between the management of the Dankuni Coal Complex, and their workmen, received by the Central Government on 10/11/2014.

[No. L-22012/370/1999-IR(CM-II)]

B. M. PATNAIK, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Reference No. 21 of 2000

Parties : Employers in relation to the management of the Chief General Manager, Dankuni Coal Complex

AND

Their workmen

Present : Justice DIPAK SAHA RAY, Presiding Officer

Appearance :

On behalf of the Management : Mr. Uttam Kumar Mondal, Ld. Counsel.

On behalf of the Workmen : None.

State : West Bengal **Industry :** Coal

Dated: 21st October, 2014.

AWARD

By Order No.L-22012/370/99/IR(CM-II) dated 20.02.2000 the Government of India, Ministry of Labour in exercise of its powers under Section 10(1)(d) and (2A) of the industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication:

“Whether the action of the management of Dankuni Coal Complex (a subsidiary of SECL) in not considering the proper seniority to Sh. Ram Chandra Makal, now Tech. Gr. E superseding by his juniors S/ Sh. A. K. Seal, P. K. Seal and K. R. Sarkar is justified? If not to what relief the concerned workman is entitled?”

2. When the case is taken up today, none appears on behalf of the union, though the management is represented by its Ld. Counsel. It appears from the record that the union is absent since 26.11.2013. Nor has any step been taken by it to proceed with this reference inspite of service of notice and inspite of specific order of the Tribunal on the last date i.e., on 07.08.2014.

3. Considering the above facts and circumstances, it appears that the union is not at all interested to proceed with the case further. So, no useful purpose will be served in keeping the matter pending.

4. Accordingly, the instant reference case is disposed of by passing a “No Dispute Award”.

Dated, Kolkata,
The 21st October, 2014.

Justice DIPAK SAHA RAY, Presiding Officer

नई दिल्ली, 10 नवम्बर, 2014

का.आ. 2931.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भद्रा इन्टरनेशनल इंडिया लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकार्यों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, चैन्नई के पंचाट (संदर्भ संख्या 75/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 10/11/2014 को प्राप्त हुआ था।

[सं. एल-11012/15/2013-आईआर (सीएम-I)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 10th November, 2014

S.O. 2931.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 75/2013) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the management of M/s. Bhadra International India Limited, and their workmen, which was received by the Central Government on 10/11/2014.

[No. L-11012/15/2013-IR(CM-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT CHENNAI.

Tuesday, the 14th October, 2014

Present : K. P. PRASANNA KUMARI, Presiding Officer

Industrial Dispute No. 75/2013

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of

Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of Bhadra International India Ltd. & Another and their workman)

BETWEEN

Sri A. Mariya Joseph : 1st Party/Petitioner

AND

The Vice President : 2nd Party/Respondent
 M/s. Bhadra International
 India Ltd. A-9, Airlines
 Office Gallery, 2nd Floor
 Anna International Terminal,
 Chennai Airport
 Chennai-600027

Appearance :

For the 1st Party/Petitioner : M/s. K. Raja, N.
 Suresh, Advocates

For the 2nd Party/Respondent : Sri N. Vijayakumar,
 Advocate

AWARD

The Central Government, Ministry of Labour & Employment vide its Order No. L-11012/15/2013-IR CM. I) dated 27.06.2013 referred the following industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is :

"Whether the action of the management of Bhadra International Ltd., Chennai in respect of not allowing Sri K. Maria Joseph, Handyman to work spot is legal and justified? To what relief the concerned workman is entitled to?"

On receipt of Industrial Dispute this Tribunal has numbered it as ID 75/2013 and issued notices to both sides. Both sides entered appearance through their counsel and filed their Claim and Counter Statement respectively.

The averments in the Claim Statement filed by the petitioner in brief are as below:

The petitioner was appointed as Handyman in Chennai Airport in the year 2003 under the Contractor. From 2003 he was continuously working as such. When the Respondent obtained the contract the petitioner was appointed as Handyman (Import) w.e.f. 17.02.2011. Later the petitioner was put in the post of Shed-in-Charge on the scale of Rs. 13,000/- in Import Cargo. But he was never paid the scale of Shed-in-Charge. As per the terms and conditions of the Appointment Order the petitioner was under probation for six months. Having successfully completed his probation his appointment was confirmed. The appointment was for a period of 5 years subject to renewal by both parties on mutual agreement. Though

the petitioner was posted at one place he was not allowed to work there. The petitioner sought for posting in the allotted place viz. the post of Shed-in-Charge and for salary for this post. After this the Respondent started to make problem so as to throw the petitioner out of service. He was stopped from attending duty w.e.f. 24.01.2012. His pass was forfeited without assigning any reason. Since the appointment is for a period of 5 years, the Respondent could not terminate the petitioner before the expiry of this period. The petitioner was terminated from service arbitrarily without assigning any reasons and against the principles of natural justice. If the Respondent wanted to terminate the petitioner, one month's notice or salary in lieu of the same should have been paid. The petitioner has caused to issue a legal notice seeking reinstatement. This did not yield any result. It is consequently the dispute has been raised. An order may be passed directing the Respondent to reinstate the petitioner in service with continuity of service and all other attendant benefits.

4. The First Respondent has filed Counter Statement contending as follows:

The petitioner was appointed as Handyman by the First Respondent by letter dated 28.02.2011 on contract for a period of 5 years. The petitioner was never promoted as Shed-in-Charge. The petitioner was never confirmed in his employment. He was habitually absenting from duty and was absent from duty for more than 45 days from February 2011 to January 2012. In addition to this, he was indulging in unfair labour practices and was involved in misconduct of false propaganda against the Management officials. The petitioner has not successfully completed his probation. His probation was extended by 6 months. The habitual unauthorized absenteeism of the petitioner amounts to gross violation of discipline. The petitioner cannot choose his place of work or demand promotion. By demanding to work in a particular place of establishment the petitioner has violated his appointment order. The petitioner was never stopped from attending duty. He had voluntarily stopped attending work when he was exposed during an enquiry on a complaint against him was investigated. The petitioner continued to be on the rolls of the First Respondent even though he has not reported for duty since 24.01.2012. The petitioner is not entitled to any relief.

5. The petitioner has raised the dispute only against M/s. Bhadra International India Ltd., Chennai, the First Respondent and this establishment alone is the party to the order of reference apart from the petitioner. Notice was sent only to the petitioner and M/s. Bhadra International India Ltd. on numbering the reference. However, while filing Claim Statement the petitioner has shown the Airports Authority of India as the Second Respondent, showing Bhadra International India Ltd. as the First Respondent. So in the Counter Statement Bhadra

International India Ltd. has referred to itself as the First Respondent. The petitioner has not filed any application to implead anyone other than Bhadra International India Ltd. in the proceedings. Notice was not sent to Airports Authority of India also. Even as seen from the version given by the petitioner during his examination he has made Airport Authority of India only because it is the authority issuing Entry Pass. All along, in the Claim Statement, the petitioner is referring to "Respondent" and not "Respondents" and the relief is also claimed against **Bhadra International India Ltd.** only. Bhadra International India Ltd. being the only party to the reference other than the petitioner, it is referred to as the Respondent in the discussion below. The Airports Authority of India which is shown as Second Respondent in the Claim Statement is treated as not in the party array.

6. The evidence in the case consists of oral evidence of WW1 and MW1 and documents marked as Ext.W1 to Ext.W22 and Ext.M1 to Ext.M8 (series).

7. The points for consideration are:

- (i) Whether the action of the Respondent in not allowing the petitioner to attend work is legal and justified?
- (ii) What, if any, is the relief to which the petitioner is entitled?

The Points

8. The Respondent is an establishment doing work for Airports Authority of India on contract. The petitioner was admittedly appointed by the Respondent as Handyman. As per the terms of appointment the period of employment is 5 years and this can be extended to a further period of 5 years on agreement.

9. According to the petitioner, though he was appointed as Handyman w.e.f. 17.02.2011, he was put in the post of Shed-in-Charge which is having a scale of Rs. 13,000 subsequently. However, according to him the Respondent never paid the salary of Shed-in-Charge to him. His allegation is that when he demanded that he should be given a posting as Shed-in-Charge and he should be paid salary for this work, the Respondent started devices for sending him out of the job. It is alleged that he was not allowed to attend duty w.e.f. 24.01.2012. He is claiming reinstatement alleging that there is no justification in terminating him from service without any notice and without assigning any reason.

10. The Respondent admitted that the petitioner was appointed as Handyman. However, according to the Respondent the petitioner was never engaged to do the work of Shed-in-Charge. He continued to do the work of Handyman only. The further case of the Respondent is that the petitioner was not even confirmed in the job, his probation having not been declared. According to the

Respondent probation was extended for a period of 6 months. The Respondent has alleged that the petitioner was a continuous absentee and he was also indulging in the misconduct of making false propaganda against the Management officials. It is claimed by the Respondent that the petitioner has voluntarily stopped attending work since 24.01.2012. According to the respondent the petitioner continued to be in its rolls even after this date.

11. Initially it is to be decided what exactly was the status of the petitioner on 24.01.2012, whether he was a Handyman in probation, whether he was confirmed in the job of Handyman or whether he was put in the post of Shed-in-Charge. Ext.W10 is the letter of appointment dated 28.02.2011 which states that the appointment of the petitioner as Handyman will be effective from 17.02.2011 and the appointee will be on probation for a period of 6 months. 24.01.2012 is admittedly the date on which the petitioner stopped working. By then almost a year has elapsed after the appointment of the petitioner. The period of probation as per Ext.W10 is only 6 months. Though there is a case for the Respondent that the period was extended by 6 months no documents are produced to prove this. Apart from this, MW1 the Senior Executive of the Respondent has stated that the petitioner has successfully completed the period of probation. There seems to have been no practice for the Respondent to give any written order confirming in employment. The admission by MW1 that the petitioner was confirmed in his job is enough to show that the petitioner has successfully completed his period of probation and he was confirmed in the job as Handyman. Certainly, he was not on probation on 24.01.2012, the date on which he stopped working.

12. The case of the petitioner is that after working for some period as Handyman, he was put in the job of Shed-in-Charge and he was working as such. However he has not stated from which date he started to work as Shed-in-Charge. He has been relying upon certain documents produced by him to show that he was actually engaged to work as Shed Incharge. In Ext.W13 which is referred to as posting order, the name of the petitioner comes under Shed-in-Charge alongwith others. In Ext.W14 to Ext.W16 also there is reference to him as Shed-in-Charge. However, there is nothing to show that these are documents of the Respondent. These documents do not show the name of the Respondent. No one has signed these documents on behalf of the Respondent. The petitioner has not stated how he came to be in the custody of these documents. So on the basis of these documents it could not be stated that he was put in the post of Shed-in-Charge. When the admission made by the petitioner itself is taken into account it could be seen that he was never posted as Shed-in-Charge. He has admitted during his cross-examination that he was not given any letter appointing him as Shed-in-Charge. There was no increase

in salary also. So it is clear from the evidence of the petitioner that he was not given promotion to the post of Shed-in-Charge. The documents produced on behalf of the Respondent refer to the petitioner only as Handyman and not as Shed-in-Charge. Ext.M6, the roster and Ext.M7, the Attendance Register refer to him as Handyman only. Referring to Ext.M7, MW1 has stated that the petitioner was put under supervisor because of his experience though he was a handyman. In this document, while the petitioner is shown as Handyman, he is shown under the Column Supervisor. It is to be borne in mind that even as per Ext.W1 to Ext.W7, the entry passes and Ext.W8, the salary receipt, the petitioner had been doing the same work under other Contractors as well. As seen from Ext.W1 to Ext.W7, he was earlier working for one Omega Enterprises. As pointed out by the counsel for the Respondent even in the claim statement what is stated by the petitioner is that he was discharging his duties without any room for complaint during his tenure as Handyman. Again, in Ext.W18 the legal notice issued by the petitioner to the Respondent has no claim that he was working as Shed-in-Charge until 24.01.2012, on which date he was allegedly forced to stop work. So the case of the Respondent that the petitioner was Handyman only is to be accepted. However, he was confirmed in job and was not on probation.

13. The petitioner was not able to work under the Respondent from 24.01.2012. What the Respondent has stated is that when it started enquiring into the complaint against the petitioner he stopped attending work. The only document produced to show that the petitioner has committed any misconduct and the matter was enquired into is Ext.M5. This is referred to as Enquiry Committee Report. It states that the petitioner has made allegation on duty allocations and the complaint was found false. There is no case for the Respondent that the petitioner was given any opportunity to present his case before the Enquiry Committee. Again, there is no case for the Respondent that it was because of the complaint made by the petitioner or on account of any other misconduct he was sent out of work.

14. In fact there is no case at all for the Respondent that the petitioner was terminated from service. According to the Respondent, the petitioner was a continuous absentee and has stopped attending work when he got wind of the enquiry that was being conducted against him. The petitioner of course seems to have been absent for some day prior to 24.02.2012 as admitted by him during his cross-examination. However, after such absence the petitioner has attended work. His previous absence was not found as a disqualification for continuing the work as Handyman. Now the question is whether the petitioner has voluntarily absented from work from 24.01.2012 and has abandoned his job for good. If the case of the respondent is taken into account the petitioner was maintained in its rolls even

after 24.2.2011, but he continued to absent from work. No proceedings seem to have been initiated against the petitioner by the Respondent for absenting from work. Ext.M8 © is a letter said to have been sent to the petitioner on 02.02.2012 asking him to join duty within three days. Ext.M8(b) is another letter dated 06.02.2012 stating that the petitioner is presumed to have abandoned his service because of his prolonged absence beyond 8 days, that he has lost his lien on his appointment on account of his absence. Though it is stated in these two letters that they are sent under Certificate of Posting, no proof is produced to prove that they were sent to the petitioner and he has received these. The petitioner has stated that he has not received any such letters. Of course, he has stated during his cross-examination that he was not residing in the address given to the Respondent. However, in the absence of proof of sending of these letters to the petitioner, it is to be assumed that such letters were not sent to him at all.

15. In spite of the case in Ext.M8(d) that the petitioner is to be considered to have abandoned his service, the stand taken in the Counter Statement of the Respondent is that the petitioner continued to be in the rolls and it was a case of his not coming and working. If the petitioner was treated to have abandoned from service, his name would not have been retained in the rolls. It could be seen from the documents produced by the petitioner that he was making hectic attempts to assert his position as a worker with the Respondent. Ext.W17 is the representation given by the petitioner to the Respondent on 07.02.2012 stating that he is waiting outside ready to enter and do his work. In the absence of entry pass the petitioner would not be able to enter the Airport. Even as admitted by the Respondent each worker has to surrender his entry pass to the Bureau of Civil Aviation Security on completion of the work of shift. This has been stated by the petitioner during his examination also. So only if the Respondent allows the petitioner to do work the Airport Authority will be issuing the pass. There is no case for the Respondent that it did not receive Ext.W17 representation. Since there was no result for Ext.W17, the petitioner had sent Ext.W18 a legal notice also to the Respondent. For this also there was no reply from the Respondent. If the case of the Respondent that the petitioner was not terminated from service is true a reply could have been sent stating that he is welcome to continue in the job. Though before the Conciliation Officer and in the Counter Statement before this Court, the Respondent has stated that the petitioner was not terminated from service, there was not even a whisper that the Respondent is willing to allow the petitioner to continue in the job. It is clear from the conduct of the Respondent that because of certain claims made by the petitioner it found the petitioner unacceptable and decided to turn him out. No notice as required under Section-25(F) under the ID Act has been given to the

petitioner. He was not given any pay in lieu of notice also. The petitioner is entitled to be reinstated in service.

16. In view of my discussion above, an award is passed as below:

The Respondent is directed to reinstate the petitioner in service within a month of the award.

The reference is answered accordingly.

K. P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined:

For the 1st Party/ Petitioner : WW1, Sri A. Mariya Joseph

For the 2nd Party/ Management : MW1, Sri P. Vijayakumar

Documents Marked:

On the petitioner's side

Ex.No.	Date	Description
Ex.W1	13.04.2005	Entry Pass
Ex.W2	03.06.2005	Entry Pass
Ex.W3	20.08.2005	Entry Pass
Ex.W4	22.11.2005	Entry Pass
Ex.W5	17.01.2006	Entry Pass
Ex.W6	22.07.2006	Entry Pass
Ex.W7	16.10.2006	Entry Pass
Ex.W8	Feb. 2009	Salary Receipt
Ex.W9	12.02.2011	Letter of Intent
Ex.W10	28.02.2011	Letter of Appointment
Ex.W11	June 2011	Salary Receipt
Ex.W12	10.12.2011	Roaster List
Ex.W13	30.12.2011	Posting Order
Ex.W14	30.12.2011	Roaster List
Ex.W15	03.01.2012	Roaster List
Ex.W16	09.01.2012	Roaster List
Ex.W17	07.02.2012	Representation
Ex.W18	21.05.2012	Legal Notice
Ex.W19	04.09.2012	Petition u/s 2A
Ex.W20	Nil	Reply to petition u/s 2A
Ex.W21	Jan 2013	Rejoinder
Ex.W22	20.05.2012	Failure Report

On the Management's side

Ex.No.	Date	Description
Ex.M1	Feb. 2011 to Jan 2012	Annexure-A : Salary Statements
Ex.M2	Feb. 2011 to Feb. 2012	Annexure-B : Attendance Record

Ex.M3	Nil	Annexure-C : Complaint Letter
Ex.M4	28.02.2011	Annexure-D : Copy of Appointment Letter
Ex.M5	28.01.2012	Annexure-E : Enquiry Report
Ex.M6	20.01.2012 to 23.01.2012	Annexure-F : Roster
Ex.M7	Jan. to Feb. 2012	Annexure-G : Attendance Record
Ex.M8	06.02.2012	Annexure-H : Letters

नई दिल्ली, 10 नवम्बर, 2014

का.आ. 2932.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसार में केन्द्रीय सरकार बी. सी. एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय 2, धनबाद के पंचाट (संदर्भ संख्या 50/2012) को प्रकाशित करती है जो केन्द्रीय सरकार को 10/11/2014 को प्राप्त हुआ था।

[सं. एल-20012/22/2012-आईआर (सीएम-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 10th November, 2014

S.O. 2932.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 50/2012) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Dhanbad as shown in the Annexure in the Industrial Dispute between the management of the M/s. BCCL, and their workmen, received by the Central Government on 10/11/2014.

[No. L-20012/22/2012-IR(CM-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO.2), AT DHANBAD

Present : Shri KISHORI RAM, Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act., 1947.

REFERENCE NO. 50 OF 2012.

Parties : The Organizing Secretary,
Rastriya Colliery Mazdoor Sangh
Rajendra Path, Dhanbad.
Vs.

The General Manager,
Sijua Area of M/s. BCCL,
PO: Sijua, Dhanbad.
Ministry's Order No L-20012/22/2012-IR
(CM-I) dt.30.07.12.

Appearances :

On behalf of the workman/Union : None

In behalf of the Management : Mr. D. K. Verma
Ld. Advocate

State : Jharkhand

Industry : Coal

Dhanbad, Dated, the 22nd Sept, 2014.

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under section 10(1)(d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No L-20012/22/2012-IR(CM-I) dt.30.07.12.

SCHEDULE

"Whether the action of the Management of Sendra Bansjora Colliery of M/s. BCCL in not regularizing Sri Baijnath Jaiswara in the post of Dozer Operator is fair and justified? To what relief is the workman concerned entitled?"

No Representative for the Rastriya Colliery Bazdoor Sangh, Rajendra Path, Dhanbad nor workman Baijnath Jaiswara appeared nor any written statement with documents filed so far. Mr. D. K. Verma, the Ld. Advocate for the O.P./Management of Sijua Area of M/s. BCCL is present.

On perusal of the case record, it is quite clear that despite three Regd. letters issued to the Union concerned at its address noted in the Reference, neither the Union nor the workman responded to it. As such the Organization Secretary of the Union and the workman by their conduct appear to be not willing to pursue or contest the case. It seems no longer industrial dispute. Hence the case is closed and accordingly, an order of 'No Dispute' is passed.

KISHORI RAM, Presiding Officer

नई दिल्ली, 10 नवम्बर, 2014

का.आ. 2933.—औद्योगिक विवाद अधिनियम, 1947 (1947-14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एवं इण्डिया ट्रेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक विवाद/श्रम व्यायालय-2, मुंबई के पंचाट (संदर्भ संख्या 16/2003) व्यक्तिश्वत करती है जो केन्द्रीय सरकार को 10/11/2014 को प्राप्त था।

[सं. एल-11012/42/2002-आईआर (सी-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 10th November, 2014

S.O. 2933.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central

Government hereby publishes the Award (Ref. No. 16/2003) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Mumbai as shown in the Annexure in the Industrial Dispute between the management of the M/s. Air India Limited, and their workmen, received by the Central Government on 10/11/2014.

[No. L-11012/42/2002-IR(C-I)]

M. K. SINGH, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO.2,
MUMBAI**

Present : K. B. KATAKE, Presiding Officer

REFERENCE NO. CGIT-2/16 of 2003

**EMPLOYERS IN RELATION TO THE MANAGEMENT
OF AIR INDIA LTD.**

The Managing Director

Air India Ltd.

Air India Building

Nariman Point

Mumbai 400 021.

AND

THEIR WORKMEN.

Mr. Sadanand K. Shinde

13/22, Old Air India Colony

Kalina

Santacruz (E)

Mumbai 400 029.

Appearances :

For the employer : Ms. Geeta Raju, Advocate i/b M/s. Kini & Co.

For the Workmen : Ms. Prafulla S. Shetty, Advocate Mumbai, dated the 8th September, 2014.

AWARD

The Government of India, Ministry of Labour & Employment by its Order No.L-11012/42/2002-IR (C-I), dated 10.03.2003 in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2 (A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following industrial dispute to this Tribunal for adjudication:

"Whether the action of the management of Air India Ltd., in dismissing the services of Mr. Sadanand Krishna Shinde, Junior Operator, w.e.f. 12.01.1998 is legal and justified? If not to what relief is the workman concerned entitled?"

2. After receipt of the reference, notices were issued to both the parties. Second party workman filed his statement of claim on 26/09/2005 at Ex-13. Management resisted the statement of claim by filing their Written Statement on 21/03/2006 at Ex-14. Issues were framed at Ex-16. Thereafter both parties led their evidences and filed their respective Written Arguments.

3. In this respect I would like to point out that Approval Application was filed by the first party management before National Industrial Tribunal, Mumbai bearing Approval Application No. NTB.6 of 1998. The said Approval Application was heard and finally decided on merits by Judgement dated 10.01.2007. Copy of the same is filed alongwith list Ex-24. All the points in this reference were dealt with in the said Approval Application filed by Air India against Shri S. K. Shinde, the concerned workman in this reference. Hon'ble Justice Ghanshyam Das while deciding the Approval Application held that inquiry was fair and proper and findings of the Inquiry Officer are not perverse. He also came to the conclusion that punishment was not disproportionate. Therefore the Hon'ble Presiding Officer has allowed the Approval Application of the first party for dismissal of the workman from their services. The same issues are in this reference which are already dealt with and decided by National Industrial Tribunal. Now this Tribunal cannot go in to the same issues again.

4. In view of the Judgement dated 10/01/2007 passed by Hon'ble Presiding Officer, National Industrial Tribunal in Approval Application NTB no.6 of 1998, the reference became redundant and deserves to be dismissed. Hence the order:

ORDER

The Reference stands dismissed with no order as to cost.

Date: 08/09/2014

K. B. KATAKE, Presiding Officer

नई दिल्ली, 13 नवम्बर, 2014

का.आ. 2934.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार टिस्को के प्रबंधनतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, 2, धनबाद के पंचाट (संदर्भ संख्या 195/2001) को प्रकाशित करती है जो केन्द्रीय सरकार को 13/11/2014 को प्राप्त हुआ था।

[सं. एल-20012/152/2001-आईआर (सी-I)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 13th November, 2014

S.O. 2934.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central

Government hereby publishes the Award (Ref. No. 195/2001) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Dhanbad now as shown in the Annexure in the Industrial Dispute between the management of the M/s. TISCO, and their workmen, which was received by the Central Government on 13/11/2014.

[No. L-20012/152/2001-IR(C-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO.2), AT DHANBAD

Present : Shri KISHORI RAM, Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D.Act 1947.

REFERENCE NO. 195 OF 2001

PARTIES : The Organization Secretary,
Rastriya Colliery Mazdoor Sangh.
Rajendra Path, Dhanbad.

Vs.

The General Manager,
Tata Iron & Steel Company Ltd.,
At/PO: Jamadoba. Dhanbad.
Ministry's Order No L—20012/152/2001/
IR (C-I) dt. 10.07.2001

APPEARANCES:

On behalf of the workman/ : Mr. Samendra Sinha &
Union Mr A. K. Prasad, Ld.
Advocates

On behalf of the : Mr. D. K. Verma Ld.
Management Advocate

State : Jharkhand Industry : Coal

Dated, Dhanbad, the 29th Sept., 2014

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec 10(1)(d) of the I.D. Ad., 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No.-L-20012/152/2001/IR(C-I) dt. 10.07.2001.

SCHEDULE

“Whether the action of the management of TISCO in not protecting SPRA and annual increment while fixing pay of Shri Kishori Singh & 32 others to be read 43 others as per corrigendum, dt. 29.10.2001 (as per list) in time rated job is justified? If not, to what reliefs are the workmen entitled?”

On receipt of the Order No L-20012 152 2001/IR(C-I) dt. 10.07.2001 of the above mentioned reference from the

Government of India, Ministry of Labour & Employment, New Delhi for adjudication of the dispute, the Reference Case No. 195 of 2001 was registered on 08.08.2001 and accordingly an order to that effect was passed to issue notices through the Registered Posts to the parties concerned, directing them to appear in the Court on the date fixed, and to file their written statements along with the relevant documents. In pursuance of the said order, notices by the Registered Posts were sent to the parties concerned.

Both the parties made their appearances and filed their pleadings and photocopies of their documents. The Union and the O.P./Management through their own Learned Counsels appeared in, and contested the case.

2. The case of the sponsoring Union for workmen Sri Kishori Singh & 32 others be read as 43 others (as per corrigendum dt. 29.10.2001)(as per list) is that they had been working as M/Loader at Jamadoba Colliery of M/s. TISCO. The Management converted them into Time Rated Job from Piece Rated job in the years 1993, 1994 and 1995, and re-designated them as M.S.Crew, but without the protection of their wages with their earned SPRA and Annual increment for their previous services in their aforesaid present category of Multi Skilled Crew job. The Management had placed them in Category-V at the time of their conversion in Time Rated job. Later on they were promoted in Categoy-VI. The Sr. Divisional Manager (P & W) of M/s. TISCO as per the letter No.JMB/PD/3955/95 dt.24/25.1.1995 had also instructed to all Heads of department to give protection of SPRA earned by the Piece rated workers as Annual increments for the years of their services as Piece Rated workers.

The Management has accordingly protected the SPRA and annual increment of few such employees at the time of their conversion into T.R. Job {Time Rated Job}, but the same policy /footing was not adopted by the Management in respect of these workmen's fixation of their pay scale. It resulted monthly financial loss for Rs.3 to 4 hundred rupees to them .As per the guideline of the Joint Bipartite Committee for Coal Industry, the Implementation Instruction No.18 and other I.I.need to be followed in case of any anomaly. Further alleged is that the wrong fixation of wages affected and deprived them of their basic wages, attendance bonus, ex-gratia (Profit sharing Bonus) etc. as well as their promotion at relevant time. The management should rectify the blunder from the date it was committed, by the Management. Despite several times discussions and showing few calculation chart of the workmen by the Union, the Union finally raised the Industrial Dispute for it before the Asstt. Labour Commissioner (C), Dhanbad, and it ended in failure; hence the reference of it for an adjudication. The action of the Management was unjustified; the workmen are entitled to the protection of SPRA and annual increment.

3. The Union Representative in the rejoinder of the workmen has specifically denied the allegations of the O.P/Management as incorrect, contradictory and vague, further alleging the maintainability of the Reference in facts as well as in laws; they have not got S.L.U. after completion of 7 (seven) years.

4. In challenge to it, the contra case of the O.P./Management with categorical denials is that the present reference is not maintainable; the workmen except Badri Singh were working as Miners. Badri Singh was working as a Category I in time rated Category from beginning. The workmen were granted the SPRA during the period of their working as Piece Rated workers. Their conversion as Multi Skilled Crew took place in the years 1993, 1994 and 1995, so the workmen concerned placed as M.S.Crew are eligible for payment of wages from Cat.V of time Rate. At the time of conversion from Miner to M.S.Crew, The workmen concerned were given initial basic category and SPRA earned by them. Proper fitment of the workmen concerned in Cat.V and correctly protection of their SPRA were given according to the Circular issued by the Management. None of the workmen has suffered any loss. The demand of the Union is hypothetical, the workmen are not entitled to any relief. Moreover, the subject-matter of the reference is not an Industrial dispute.

The averments made in the written statement of the workmen are hypothetical

FINDING WITH REASONS

5. In the reference, WW1 Kishor Singh one of the workmen WW2 Santosh Kumar Mahato, the Secretary for the Union and MW1 Dinesh Kr. Sharma, the Head Clerk, H.R. Deptt. for the Management have been examined respectively.

On perusal of the materials available on the case record, it appears to be no dispute that Piece rated workers are paid their Group wages for the work done.. They are of three kinds: firstly Group I, Group III and Group VA. Miner/ Loader being to VA. A Piece Rated worker gets annually one SPRA whereas a Time Rated worker gets one increment annually. Time rated workers began to get their increment of Category V since their conversion into Time Rated Workers from their Piece Rated ones. In this reference, Sri Badri Singh, one of the workmen, was never a Piece rated worker. From the aforesaid facts, it stands evident that a Piece Rated Worker does not get an annual increment.

Mr. Samerendra Sinha, Learned Advocate for the Union/workmen has submitted that these workmen were the permanent Piece Rated M/Loader at Jamadoba Colliery of TISCO Management since their appointment dates as per their list in TISCO; the Daily Rated Workers get annual increments according to employees fixed pay scale; since Piece Rated workers have no fixed rate of pay, they get special Piece Rated allowance (SPRA), but the Miners/

Workers having the harder jobs, they had to get category rate of increment instead of SPRA as per the Settlement dt. 7.2.1991. It is also argued that while converting the workmen concerned for P/R Mines to time rated Multi Skilled Crew, Management paid them one SPRA only instead of annual increment of Category V rate of pay, though the management had allowed one workman Ram Naresh Yadav only Category V rate of increment instead of SPRA.

Quite contrary to it Mr.D.K.Verma, Learned Counsel for the O.P./Management has contended that admittedly the workmen initially appointed as Piece rated workers (P.R.W) got their wages for their work done, so they were getting their SPRA (Spl.Piece Rate Allowance) which is an increment ever increasing' annually, whereas the Time rated workmen (Shortly known as T.R.W.) got annual increment annually; and that the workmen were converted into Time Rated workers with their wages protection .Sri Ram Naresh Yadav,one of the workmen, was wrongly allowed V Rate of increment which was corrected as his basic rate but not that of annual increment, as per the Management's Letter dt.26/28.4.1990 (Ext.M.2),so the claim of the workmen based on the aforesaid wrong case of Sri Ram Naresh Yadav for fixing their pay in Time Rated jobs with SPRA and annual increment is illegal.

After. perusal and consideration of the materials including aforesaid indisputable facts on the case record, I find that Piece Rated Miner/ workers in the TISCO Management get only their group wages based on their workload beyond which the wages are paid pro rata to them. Time Rates workers are given their annual increment.These workers already used to get their SPRA (Spl.Piece Rated Allowance).On their conversion into the Miner time Rates Workers (MSC) Multi Skilled Cat.V, they were given initial Cat.V wages with their respective SPRA earned by them since their conversion in 1993, 1994 and 1995 as per.the Circulars dtt.26/28.4.1990, 16.6.1995 & 24. 11.1995 (Extt.M.2 series respectively). Moreover, the authenticated copies of the two charts of the fitment Committee as per the Management's both letters dt.21.7.1999 related to these workmen (excluding Sri Badri Singh, who was never a Piece Rated workman) on implementation of N.C.W.A.-V rate given appear to be in consonance with the aforesaid circulars of the O.P./management .At this point, I am of the view that the alleged wrong decision as per the settlement dt.15.2.1991 (Ext.W.1) on which the claim of the Union/workmen rests appears to be quite contrary to the established rules; hence, it is unsustainable .The argument of Mr.Verma, as contrasted with that of Mr.Samerendra Sinha appears to be more plausible and persuasive.

In result, it is, in the terms of the reference, hereby responded and accordingly awarded as such that the action of the Management of TISCO in protecting the SPRA

of Sri Kishori Singh & 32 others be read as 43 others (as per lists) as per corrigendum dt.29.10.2001, but not with annual increment while fixing their pay in time rate job is absolutely justified and legal; therefore, the workmen concerned are not entitled to any relief whatsoever.

KISHORI RAM, Presiding Officer.

List of the workmen vide Ministry Order of Reference No. L-20012/152/2001 -IR(C-I) dt. 10.07.2001. in respect of Ref.No. 195/2001

Sl.	Name	P. No.	Permanent as Miner	As M.S. Crew
1	Kishori Singh	208809	31/07/73	21/08/93
2	Amrit Lal	220368	25/09/91	01/10/94
3	Shivnath Rajbhar	218097	06/03/89	15/07/93
4	Jagarnath	216334	11/04/83	15/07/93
5	Jagdish Saw	216003	29/09/89	01/10/94
6	Rajendra Kumar	218408	10/11/90	01/10/94
7	Chandrika Prasad	210778	21/7/77	21/03/95
8	Bachu Yadav	218338	19/11/90	01/10/94
9	Indra Dev	216016	26/2/89	15/07/93
10	Rijwan Ahmad	218396	19/11/90	01/10/94
11	MD.Aklakh Khan	218976	05/11/91	21/03/95
12	Ram Kishun Pattle	216218	04/10/89	15/07/93
13	Lal Bhadur	214471	01/04/83	15/07/93
14	R.P.Singh	218785	30/10/89	15/7/93
15	Rekhai Rajbhar	211018	25/7/77	15/07/93
16	Jettu Lal	206975	03/07/63	15/07/93
17	K.B.Saw	218584	21/05/91	01/10/94
18	S.K.Bishkarma	219334	07/02/92	01/10/94
19	Onkar Prasad	220006	23/09/91	01/10/94
20	Ramasjaire	217666	19/11/83	15/07/93
21	Baghu Mahato	218677	25/09/89	02/03/95
22	Shri vas taba	219659	02/02/93	01/10/94
23	Ram Dhani	217362	16/10/86	21/03/95
24	Anil Kumar	218957	05/11/91	21/03/95
25	Girish Dev	218083	03/02/89	15/07/93
26	Ram Naresh Yadav	217764	13/04/88	01/10/94
27	Puran Ch.Mahato	214476	24/01/81	15/07/93
28	Shankar Yadav	217209	06/05/86	15/07/93
29	Uttam Kumar	217655	06/11/87	15/07/93
30	Ram Narayan	210773	21/04/97	15/07/93
31	Jhagroo Mahato	215895	01/04/83	01/10/94
32	Dinesh Turi	218273	15/11/90	15/07/93
33	Badri Singh	217127	01/03/86 as Cat. I	15.07.93

List of the workmen as per Corrigendum vide
Ministry Order of Reference No. L-20012/152/2001/IR(C-I)
dt. 10.07.2001. In respect of Ref. No. 195/2001

Sl.	Name.	P. No.	Permanent as Miner.	As M.S. Crew.
1	Om Prakash	218583	23.09.91	21.03.95
2	Kanta	218973	06.04.90	21.03.95
3	Santu Prasad	211047	06.06.77	21.03.95
4	Laxman	218679	26.06.89	01.10.94
5	Loutu Yadav	221345	23.07.93	21.03.95
6	Lalsa Yadav	218897	26.06.92	04.10.94
7	Joginder Singh	218884	26.12.90	21.03.95
8	Ram Lakan Prasad	219385	11.12.90	04.10.94
9	Hich Lal	219655	31.05.91	21.03.95
10	Duarika Mahato	217956	02.04.88	21.03.95
11	Hiru Behia		06.01.92	10.94

Total workmen including the Corrigendum List are 44
(Fourty four) (33 + 11)

नई दिल्ली, 13 नवम्बर, 2014

का.आ. 2935.—ओद्योगिक विवाद अधिकार, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बी. सी. सी. एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण/श्रम न्यायालय-2, धनबाद के पंजाट (संदर्भ संख्या 13/2002) को प्रकाशित करती है जो केन्द्रीय सरकार द्वारा 13/11/2014 को प्राप्त हुआ था।

[सं. एल-20012/530/2001-आईआर (सी-I)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 13th November, 2014

S.O. 2935.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 13/2002) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Dhanbad as shown in the Annexure in the Industrial Dispute between the management of M/s. BCCL, and their workmen, received by the Central Government on 13/11/2014.

[No. L-20012/530/2001-IR(C-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO.2), AT DHANBAD

Present : Shri KISHORI RAM, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1)(d) of the I. D. Act 1947.

REFERENCE NO. 13 OF 2002

PARTIES : The General Secretary, Bihar Collier) Kamgar Union, Poddar Para.PO:Jharia.Dhanbad.

Vs.

The General Manager, Madhuban Washery Zone of M/s. BCCL PO:Nawagarh. Dhanbad.
Ministry's Order No. L-20012/530/2001-IR(C-I) dt. 28.02.2002

APPEARANCES :

On behalf of the workman/Union : Mr. S.N.Ghosh, Ld. Advocate

On behalf of the Management : Mr. U. N. Lal Ld. Advocate

State : Jharkhand Industry : Coal

Dhanbad, the 25th September, 2014.

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec. 10(l)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No L-20012/530/2001-IR(C-I) dt. 28.02.2002.

SCHEDULE

“Whether the demand of the RCKU from the Management BCCL,Madhuban Coal Washery to treat Shri Ratilal Mahato and 57 others (as per list) as the direct workman of the M/s BCCL and their regularization with the retrospective effect with full back wages is just and fair? If so, to what reliefs are these workmen entitled and from what date?”

On receipt of the Order No L-20012/530/2001-IR(C-I) dt.28.02.2002 of the above mentioned reference from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, the Reference Case No. 13 of 2002 was registered on 3rd April,2002 and accordingly an order to that effect was passed to issue notices through the Registered Posts to the parties concerned, directing them to appear in the Court on the date fixed, and to file their written statements along with the relevant documents. In pursuance of the said order, notices by the Registered Posts were sent to the parties concerned.

Both the parties made their appearances and filed their pleadings and photocopies of their documents. The workman and the O.P./Management through their Lawyers appeared in, and contested the case.

2. The case of Shri Ratilal Mahato and 57 others (as per list) as sponsored by the Bihar Colliery Kamgar

Union, Poddar Para, Jharia, Dhanbad, is that they have been working on the job of permanent and technical nature engaged by MAMC in the Washery Project of Madhuban Coal Washery since 1994 onwards. They are performing their job directly under the supervision of the Management officers like Sri Ashok Kumar, the Project Officer (Const.), Sri P.K. Mohanty, the Side In charge and Sri U.K. Jaiswal E/A.C. The Management has the full control over the workmen. The bill for payment is passed to the satisfaction of the Management persons regarding the performance of the job. Though these workmen of the Adarsh Shramik Sahayog Samiti Ltd. were initially engaged by MAMC, at a very short span of time, these workers were taken under the supervision and control of the Management, since then till now they are uninterruptedly working. They enter the washery through their own gate passes issued in their names. Thus, the employer-employee relationship between the Management and the workmen is established as also admitted by the Management in its rejoinder on 9.8.2001 during the conciliation proceeding before the ALC (C), Dhanbad, declaring the BCCL as the Principal Employer responsible for the payment of the workmen. Their performance of job directly relate to the production in addition to other jobs such as the dust extraction from the machines and repair of the same. The services of the workmen as specialized is inevitable for proper functioning of the Project in lack of specialized employees of the Management. They had already put in more than 240 days attendance in each calendar year without any break. As per the JBCCI the workmen need to be permanently regularized in the services of the BCCL. The NAMC was under BIFR since long, but at last its winding up came to closure but not as a factor for the BCCL. In result, the management began to directly entrust the workmen with work, as they are readily available at the disposal of the management, yet the sole motive of the Management by alleging the workmen as outsiders to make backdoor entry or by arbitrarily denying their regularization is the depriving them of their genuine demand for regularization. The workmen are entitled to regularization as permanent workmen in the BCCL with all retrospective wages etc.

In the rejoinder by one workman Rati Lal Mahato for the workmen, all the allegations of the O.P./Management have been denied as baseless, affirming their engagement by Adarsh Shramik Sahayog Samiti.

3. Whereas the contra pleaded case of the O.P./Management with categorical denials is that the reference is unmaintainable in law or in facts, as the BCCL has given Turn Key Project to M/s. MAMC to build Madhuban Coal Washery Project. The workmen were working with the Adarsh Shramik Sahayog Samiti, a Sub Contractor engaged by the said MAMC, so they were issued the Gate passes to enter the work premises for completion of contract work awarded to them. Thus no

employer-employee relationship was between them and the Management of Madhuban Coal Washery. The BCCL has got enough man power for managing Madhuban Coal Washery, so it does not need any man due to surplus manpower. The Project Officer of the said Coal Washery as per his letter dt. 20.2.2001 and 09.08.2001 has explained the facts of the case in his reply before the ALC (C), Dhanbad. The demand of the Union is baseless, false and mischievous only with a view to provide employment other persons who never worked under the Management.

The O.P./Management in its rejoinder has specifically denied all the allegations of the workmen, further alleging the fact that the Gate Passes were issued to workmen on the request of MAMC for security reasons. This can not make them the employees of the Management.

FINDINGS WITH THE REASONS

4. In the reference, WWI Ratilal Mahato, one of the workmen for all on behalf of the union, MWI P.K. Mahanty and MW2 Bendict Xalxo the Sr. Manager for the O.P./Management have been respectively produced and examined.

On perusal of the pleading and evidences of both the parties, it appears the indisputable facts that the total 58 workmen Ratilal Mahato & Others as the members of the Adarsh Shramik Sahayog Ltd used to be engaged by the contractor MAMC Ltd in the construction of Madhuban Coal Washery, Dhanbad, of M/s. BCCL. Their union used to get the work order through the MAMC for the working, for which 39 gate passes (photocopies thereof Extt. W.1 series excluding 19 workers - Sl. Nos. 5, 6, 9, 31 to 40, 45, 50, 53, 54, 56, 57) were intermittently but once issued to the workmen concerned for limited two to six months during the year 1992- March 1998 on the basis of their Union as a contractor, which had also applied for it for limited 2-3 months in the years 2002-03 as per its applications (Extt. 2 series in 25 sheets). But in the face of both the parties at variance with the other facts, the following issues are required to be determined for proper adjudication:

- (i) Whether there is a relationship of the employer-employee relationship between the employer and the workmen, and;
- (ii) Whether the workmen are entitled to regularization with full back wages retrospectively.

In the instant reference, written arguments have been filed on behalf of both the parties. But out of the double written arguments filed by, Mr. S. N. Ghosh, Ld. Authorised Advocate for the Union and Mr. D. Mukherjee, the Learned Senior Counsel, the latter's appears to be more ~~savagely~~ than submissive, so the written argument of Mr. Ghosh

occurs to be considerable irrespective of unpleaded tenaces.

At the first issue of the employer-employee relationship, Mr.Ghosh submits that the workmen have been performing their jobs of permanent and technical nature such as gas cutting, welding, repairs of Motors through intermediaries the MAMC/Adarsh Shramik Sahayog Samiti verbally since 1985, but regularly since 1992 under the direct supervision and control of the O.P./Management. They were issued the Gate passes under the signatures of the Authority concerned during the period 1992 to 1997 (Ext.W.I series) and as per the 25 photocopies of the applications dt.18/22.07.2002 to 2003 by their aforesaid Adarsh Shramik Sahayog Samiti Ltd to the Project Officer concerned for issuance of the Gate passes (Extt. 2 Series). Here according to Mr.Ghosh, the presence of intermediate contractors with whom alone the workers have immediate or direct relationship ex-contract is of consequence whom, on lifting the veil or looking at the conspectus of factors forming employment, discern the naked truth, though there in different perfect paper arrangement, that the true employer is the Management, not the immediate contractor. The Court must be astute to avoid the mischief to achieve the purpose of the law and not be misled by the maya of legal appearance as held in the case of Srinibhai vs. Alath Factory .The Zhilali,Union Ernakode,1978 LLJ 1264 (SC).further Mr.Ghosh has relied upon the ruling 1999 III SCC 601, Secretary, Haryana Electricity Board, and submitted as held therein that the contract system of deploying the workers in the job of permanent and perennial nature is prohibited and violative of Sec.10 of the Contract Labour (A & R) Act 1970 if the contract is sham and camouflage, the workmen should be treated as workmen of the Principal Employer; as such in view of the aforesaid facts of the case, there is no employer-employee relationship between the Management and the workmen.

Whereas the statue contention of Mr. U. N. Lal, Advocate for the O.P./Management is that the Management of M/s. BCCL had given the contract to the MAMC contractor for construction and operation of Madhuban Coal Washery which started in 1985 and completed in 1997; the workmen were temporarily issued gate passes at the requisitions of the contractor MAMC for one-two months only; the contractor was paid through the cheque by the Management on the bills submitted for the work done by the contractor; and the aforesaid Samiti was never issued any work order by the Management for any work, no salary or wages were paid to the workmen by the Management for any work as their work was never under the supervision of the management; so there was never any relationship of master and employee between the management and contractual workmen.

From the discussion noted above, it stands evident that the construction work of the Madhuban Coal Washery was done by Contractor MAMC Ltd. during the period 1985 to 1997 and only 39 out of the workmen appeared to have irregularly worked under the said contractor for during the years 1992 until the year 1997 i.e., the completion of the construction of the said washery, which was neither of permanent nor of perennial in nature.

In such situation, none of the aforesaid rulings as cited by Mr.S.N.Ghosh, Ld.Counsel for the workmen appears to hold good with the instant case. As such, it can safely be concluded that there had never been any employer employee relationship between the both the parties for any single moment.

5. So far as the second issue related to the regularization of the workmen is concerned, the relevant 39 Gate passes of the concerned workmen out their list (Extt.W.I series) clearly indicate/establish that none of the workmen concerned appear to have continuously worked for 240 days as required under Sec,25-B(2) (a) of the Industrial Dispute Act,1947 in any of the years 1992 to 1997 particularly during a period of twelve calendar months preceding the date with reference to which calculation is to be made, rather a few workmen appear to have irregularly got their own Gate passes for one,two,three and six months for entry into the Madhuban Coal Washery at the time of its construction. So none of the workmen is entitled to regularization.

6. Considering the aforesaid facts and circumstances, it is hereby responded in the terms of the reference, and accordingly awarded that the demand of the BCKU, Madhuban Coal Washery to treat Shri Ratilal Mahato and 57 others (as per list) as the direct workmen of BCCL and their regularization with retrospective effect with full back wages is not only unjust and unfair but also quite baseless. 50 these workmen are not at all entitled to any relief from any date.

KISHORI RAM, Presiding Officer

LIST OF THE WORKMEN AS PER MINISTRY'S ORDER OF REFERENCE NO.L-20012/530//2001-IR(C-I) dt. 28 02 2002.

Sl. No. Name of employee

1	Sri Bachhu Nandy
2	Sri Rati Lal Mahato
3	Sri Basudeo Mahto -I
4	Sri Basudeo Mahto -II
5	Sri Ramshray Yadav
6	Sri Surendra Yadav-I
7	Sri Premchand Mahato

8	Sri Hari Prasad Mahato	46	Sri Balbhagwan Pandey
9	Sri Nandlal Saw	47	Sri Kamdeo Mahato
10	J. Mahato	48	Sri Hemlal Mahato
11	Sri Nand Kishor Mahato	49	Sri Khrudhar Mahato
12	Sri Shankar Das	50	Sri Kishun Mahato
13	Sri Pramod Kumar	51	Sri Chetlal Mahato
14	Sri Jai Narayan Mahato	52	Shri Bhim Mahato
15	Sri B.N.Mahato	53	Sri Shanu Rabidas
16	Sri Nepal Saw	54	Sri Sitaram Rabidas
17	Sri Manoj Kumar Choudhary	55	Sri Shankar Rabidas
18	Sri Sikander Mahato	56	Somar Rabidas
19	Sri Tarak Nandy	57	Mithu Rabidas
20	Sri Baisum Mahato	58	Sri Basudeo Mahat II
21	Sri Manoj Kumar		
22	Sri Shankar Mandal		
23	Sri Mahro Mahato		
24	Sri P. Mahato		
25	Sri Sewa Mahato		
26	Sri Anil Kumar Saw		
27	Sri Basant Kumar		
28	Sri Mohan Lal Mahato		
29	Sri Lekhan Mahato		
30	Sri Debajit Ghosh Dastidar		
31	Sri A.K. Banerjee		
32	Sri Bharat Saw		
33	Sri Debendra Kumar Sharma		
34	Sri Purushottam Kumar		
35	Sri Ashok Kumar Rai		
36	Sri Chandra Bhusan Prasad		
37	Sri Lalan Kumar Singh		
38	Sri Ganesh Sahu		
39	Sri S. Saw		
40	Sri Lalit Mishra		
41	Sri Rajan Mahato		
42	Sri Raywat Lal Mahato		
43	Sri Lalu Manjhi		
44	Sri M. P. Yadav		
45	Sri M. Mahato		

नई दिल्ली, 13 नवम्बर, 2014

का.आ. 2936.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बी. सी. सी. एल. के प्रबंधतंत्र के संबंद्ह नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, धनबाद के पंचाट (संदर्भ संख्या 48/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13/11/2014 को प्राप्त हुआ था।

[सं. एल-20012/165/2011-आईआर (सीएम-I)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 13th November, 2014

S.O. 2936.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 48/2012) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Dhanbad now as shown in the Annexure in the Industrial Dispute between the management of the M/s. BCCL, and their workman, received by the Central Government on 13/11/2014.

[No. L-20012/165/2011-IR(CM-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO.2), AT DHANBAD

PRESENT : Shri KISHORI RAM, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947.

REFERENCE NO. 48 OF 2012

PARTIES : The President,
Bihar Sharmik Sangh,
Qr.No A/32. Bhuli "A" Block, Dhanbad.

Vs.

The Area Manager,
Bhuli Town Administration. of M/s.
BCCL, PO: Bhuli, Dhanbad.
Ministry's Order No. L-20012/165/2011-
IR(CM-I) dt.23.07.2012

APPEARANCES :

On behalf of the Workman : Mr. R. K. Prasad, Ld. Union
Union Representative

On behal f of the Management : Mr. S. N. Ghosh Ld.
Advocate

State : Jharkhand Industry : Coal

Dated, Dhanbad, the 29th September, 2014.

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec.10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/165/2011-IR(CM-I) dt. 23.07.2012.

SCHEDULE

"Whether the Safai work not being carried out by the Management of Bhuli Town Administration of BCCL through Co-operative Societies in spite of Circular dt.13.03.1990 of their own Organization is fair and justified? To what reliefs are the workers of concerned Co-operative Societies entitled?"

On receipt of the Order No. L-20012/165/2011-IR(CM-I) dt.23.07.2012 of the above mentioned reference from the Government of India, Ministry of Labour & Employment, New Delhi for adjudication of the dispute, the Reference Case No. 48 of 2012 was registered on 14.08.2012 and accordingly an order to that effect was passed to issue notices through the Registered Posts to the parties concerned, directing them to appear in the Court on the date fixed, and to file their written statements along with the relevant documents. In pursuance of the said order, notices by the Registered Posts were sent to the parties concerned.

Both the parties made their appearances and filed their pleadings and photocopies of their documents. The Union and the O.P./Management through their own Representative/ Learned Counsels appeared in, and contested the case.

2. The case of Sponsoring Bihar Sharmik Sangh, Bhuli, Dhanbad for the named 51 (fifty-one) workmen as firstly

noted in the written statement filed by Mr. R. K. Prasad, as the President of said Sangh as under only firstly named with parentage:

1. Smt. Joti Devi, W/o Sri Bablu Dome, 2. Smt. Parwati Devi, 3. Smt. Chanda Devi, 4. Smt. Uma Devi, 5. Smt. Asha Devi, 6. Smt. Madhu Devi, 7. Smt. Kalawati Devi, 8. Smt. Ranju Devi, 9. Smt. Bano Devi, 10. Smt. Santra Devi, 11. Sri Jagendra Bansfore, 12. Sri Arjun Bansfore, 13. Sri Ram Pravesh Bansfore, 14. Smt. Sunaina Devi, 15. Shri Kali Charan, 16. Sri Santosh Murmu, 17. Smt. Kalyani Devi, 18. Smt. Nirmala Devi, 19. Shri Manoj Ram 20. Smt. Rashmi Devi 21. Smt. Manju Balmiki, 22. Smt. Kunti Devi, 23. Smt. Subhadra Harin, 24. Smt. Kari Devi, 25. Smt. Puran Devi, 26. Smt. Gayatri Devi, 27. Smt. Rekha Devi, 28. Sri Prakash Hari, 29. Sri Bhim Ram Hari, 30. Shri Suraj Harijan, 31. Shri Ram Swarup Hari, 32. Shri Jitendra Bansfore, 33. Shri Bhola Ram, 34. Shri Smt. Shoba Devi, 35. Smt. Pramila Devi 36. Sri Binod Balmiki, 37. Sri Shibu Balmiki, 38. Smt. Santra Balmikiin, 39. Smt. Kaushalya Devi, 40. Sri Madan Ram, 41. Shri Hari Balmiki 42. Smt. Gita Devi, 43. Smt. Sushila Devi, 44. Sri Dipu Balmiki, 45. Shri Chintu Balmiki, 46. Smt. Chintu Devi, 47 Smt. Muni Devi, 48. Smt. Babli Devi, 49. Smt. Shankuntala Devi, 50. Shri Vicky Balmiki 51. Mamta Kumari ----- is that the total workers are the workmen of Bhuli Town Administration who worked as SAFAI MAZDOORs at different Sectors and Departments of it for maintenance of the Township for several years. They are the members of the aforesaid Union. The Management of it issued the Service Certificates to each of them in the year 1983 while the Union Representative as the Secretary of GRAM VIKASH SAMITTEE had raised a question of their regularization. The Union has adopted and annexed with it as a part the contents of the representation dt.9.9.2010 with the documents before the A.L.C. (C), Dhanbad in pursuant to which the present reference came into existence It is alleged accordingly that the Management illegally terminated the services of the workmen by stopping their work on the basis of department Letter dt. BCCL/BTA/90/690-694 dt.23/24.3.1990 without a notice or compensation, instructing them for working under Contractor, though their work was regular and perennial by nature. The workmen were directly engaged and paid wages by the Management for work on daily basis. It is also alleged that the Management as per the aforesaid letter had advised the workmen to form a Co-operative to undertake job of municipal services. The Hon'ble High Court Ranchi Bench in a Writ petition had also directed the workmen to form a Cooperative, directing the Management to provide them job. The workmen having formed a Co-operative informed the Management and sought for job as well as Tender papers but the Management declined to do so. Thus the Management defied the order of the Hon'ble Court in that regard. Further

alleged that the Management is engaging 53 contractors for the municipal jobs in the Township, but the workmen are not being provided any job. The Municipal services generally mean cleanliness in township, water supply and preventive action against epidemics of Flaria, Malaria etc. Bhuli Town also maintains supply of electricity on the basis of contractors. According to all the NCWAs, the work of permanent and perennial in nature will not be carried on contractually. The safai work is the job of permanent and perennial in nature. The Cooperative workmen are experienced in Safai work. There is also an instruction of Government of India, the Department instruction of the H.Qr. of the BCCL in addition to the order of the Hon'ble High Court. Though the workmen are daily going to the office of the Management for the jobs but the action of the Management of Bhuli Town Administration of M/s. BCCL denying them the Safai work is neither fair nor justified. Hence they are entitled to compensation in the terms of money at the rate of wages other workers getting. They are also entitled to get the job as per the Circular of the Management concerned.

The Union Representative in the rejoinder for the workmen has specifically denied all the allegations of the O.P./Management, further stating that the dispute is existing since the date of disposal, and there is a settlement dt.2.7.91 annexed with the statement of claim.

3. Whereas the contra case of the O.P./Management with categorical denials is that the Reference not falling within the purview of the Industrial Dispute is entirely misconceived and unmaintainable, as it refers to the same job prior to 1990, so it also time barred as well as stale one. The Industrial dispute was raised after more than 17 years no Industrial Dispute existent nor apprehended in such situation, so the dispute stale one. could not be subject matter of the reference. The Sponsoring Union has neither any legal right nor locus standi to raise the Industrial Dispute on behalf of the concerned workmen who never worked, but claimed to have formed a Co-operative Society to take such work. The Union by claiming the persons concerned as its members has raised the issue with a view to get undue benefits and put the employer in embarrassing situation. It is also alleged that the instant reference relates to the year 2010 in connection with the persons concerned who allegedly worked in the year 1983 onwards and 27 years ago. The Certificates as the basis of the reference are fabricated, as there was no termination of the concerned workmen at any juncture. In order to avoid complication in future, Memorandum dt.23/24.03.1990 was circulated to discourage the deployment of contractor work in performance of Municipal services, and to get such service done by a Co-operative Society through open tender. The Circular was circulated in view of the Office Memorandum No.L/18/84-BPE (SC & ST) Cell, Government of India,

Ministry of Industry recommending that the Public Sector Enterprises should be directed to dispense with the practice of assigning Safai work on contract; this work would be organized on Co-operative line with the promise that the members of workers are extended the full benefits of these entitlements which are due to other employees. In that aspect, tenders on behalf of the Management were so invited for engagement of Co-operative Societies to do the municipal services of the employees.

Further alleged on behalf of the Management that one Theka Sharmik Sahyog Samittee Ltd. while admitting the issuance of NIT for municipal service before the Hon'ble High Court of Judicature of Patna, Ranchi Bench in CWJC No.771/94(R) wherein the Hon'ble Court by order dt.16.3.1994 directed the employer to, supply tender papers to the Writ Petitioner. The aforesaid Hon'ble High Court by order dt.14.3.1995 in CWJC NO.116/176 of 1995 disposed of vide Order dt.24.5.1995 confirmed the issuance of tender by the Management for the related job.

In view of the facts that the tenderer is the employer but the offerer is Cooperative Society, so no Industrial Dispute arises for adjudication. The employer has neither engaged nor inherited to engage any contractor for execution of job of prohibited category. The Union concerned never submitted at any time any list of the persons in regard to the reference as the members of the Cooperative Society or as to the renderers of Municipal services. Hence the claim by the persons concerned through the Sponsoring Union is totally fictitious .

4. The Management has categorically denied all the allegations made by the Union for the workmen, further alleging that the reference is stale one to get the entry in the employment in the Public Sector Company through back door. Despite the policy of Central Government related to deployment of a Cooperative for workmen in regard to municipal services of the employer, the concerned workmen failed to form any cooperative Society, as before the Hon'ble Court one 'Theka Mazdoor' as the Cooperative Society was the petitioner but not the Sponsoring Union.

FINDING WITH THE REASONS

5. In the instant reference, WWI Smt. Jyoti Devi, WW2 Baban Pd.Lal,Retd.Gr.-II Bhuli,BCCL on behalf of the Union, and MWI Swapan Kumar Bhattacharya, the Sr. Manager (E & M) for the O.P./Management have been examined respectively.

The reference under adjudication relates to alleged violation of Circular dt.13.03.1990 by the O.P./Management in not engaging the workers through their cooperative societies in the Safai work of the Bhuli Town Admn.of the M/s. BCCL, and to any due relief to the workers of concerned cooperative societies. In view of

In the terms of the reference, the pleadings, evidences and arguments of both the parties, it appears no dispute that in pursuance of the letter dt.18.12.1989 of the Government of India, Ministry of Industry, Bureau of Public Enterprises, New (Ext.M.1/2), the BCCL Personnel Director, Koyla Bhawan, Dhanbad's Circular dt.13.3.1990 and the Memorandum No. BCCL/BTA/90-11690-694 dt.23.03.1990 (Ext.M1/1 and M1) were publicly issued respectively with regard to Sanitation work through Co-operative workers /Societies only registered under the Co-operative Act with instruction to provide Co-operative workers all the benefits other workers have available, but no performance of sanitation work on contract through any contractor at any public establishment.

The indisputable facts on judicial notices of the copies of the High Court's orders appear to be that one Theka Shramik Sahyog Samittee Ltd. Was a party as petitioner against the B.C.C.L. in the CWJC Nos. 771/94(R), 420/95(R) relates to Bhojudidh Washery and Jundidih Area respectively and the CWJC No.1162 176/95 (R) out of which in the first and last cases with reference to the order dt.27.02.1993 of the Hon'ble High Court passed in the CWJC No.183 /1993(R) aforesaid petitioner Samitee was directed to firstly produce before the Management concerned a Certificate of registration of a Co-operative Society properly registered under the appropriate Act, and secondly the Writ petitioner is not entitled to submit tender when the terms of the tender notice did not Qualify the petitioner to submit so, with a direction to the management concerned not to put unnecessary restriction in the tender notices, if the nature of work did not justify so, ... give them opportunity to get themselves experienced in contract works henceforth respectively. Aforesaid Writ petitioner Theka Shramik Sahyog Samittee Ltd is not but Mr. R.K. Prasad, the President of BIHAR SRAMIK SANGH. BHULI NAGAR, DHANBAD is a party as petitioner to the reference under adjudication.

In the face of the both the parties namely. Bihar Shramik Sangh and the Bihar Town Admn. (hereinafter referred to as B.T.A, Bhuli, at variance with other facts, the following issues need to be determined for proper adjudication":

- (i) Whether the sanitation work is not being carried out by the Management of the B.T.A, of BCCL through Co-operative Societies in spite of the Circular dt.13.03.1990.
- (ii) Whether instant petitioner Bihar Shramik Sangh is a registered Co-operative society under the appropriate Societies Act for such Municipal Services at Bhuli; and
- (iii) Whether the workers of concerned societies are entitled to any relief.

At the first issue, Mr. R. K. Prasad, the Union Representative, has implicitly to submit that the Management of Bhuli Town Administration (hereinafter referred to as B.T.A.) has violated the direction of the Circular dt.13.3.1990 by not carrying out the sanitation work through Co-operative Societies .From the materials available on the case record, it appears that Mr. R. K. Prasad, as the President of the present Bihar Sharmik Sangh, Bhuli as per his two letters dt.27.2.93 and 5.3.1993 Extt.W.2/1-2) to the Dy.Chief Personnel Manager and Sri B. D. Ram, Sr. Ex. Engineer (P), B.T.A. respectively had sought for the issuance of tender paper to his Union as per the Order dt.25.2.1993 of the Hon'ble High Court, Patna (Ranchi Bench)passed in C.W.J.C. Nos. 11/93 (R)118/93 (R) and 183/93 (R). Just as on the same ground one Shashi Bhusan Prasad, Secretary of Theka Sharmik Shayog Samitee, Bhuli Nagar,Dhanbad as per his letters dt. 9.8.94 and 18.01.1995 (Extt. W.2 & W.2/3 respectively) had also sought for the issuance of Tender paper for garbage /Sanitation work for 1994-95 while his aforesaid Co-operative Society was under registration process which is evident from his documents i.e., the Block Co-operative Extension Officer's letter dt.30.11.1992 and the Dy. Collector Incharge, Dhanbad's letter dt. July,2012 (Extt.W.1 & W.2/5 respectively). But not any copy of the Hon'ble High Court's Order dt.25.2.1993 passed in the aforesaid C.W.J.C.s has been filed by the present Union Representative as a base for his case. The Union Representative as per the open tender Notice dt. 9.1.1995 with its two enclosure (Ext.W.3) tends to show the violation of the aforesaid circular concerned as it was related to invitation of Sealed Tender from registered contractors which is related to Roof Repairing but not to "Sanitation work of B.T.A.whereas its both enclosures dt. 30.05.1996 and 29.05.1996 in the pen and signature of one Shankar Kishor as the contractor of Theka Sharmik Sahyog Samittee Ltd Bhuli as approved by the Issuing Officer of the O.P./Management for cleaning Ash and Jungle at "A" Block ,Bhuli Township, though earlier the Notices dt.5.5.1993 (Extt.13 series) under Sec. 80 of the Civil Procedure Code 1999 were also given by aforesaid Shankar Kishor of his Co-operative Society through his Advocate S.K.Sinha to the G.M.(A) concerned for allotment of work to his Samittee. It stands *prima facie* proved compliance of the circular in issue concerning the performance of sanitation work by aforesaid Co-operative through its own workmen concerned .The G.M. of the Management as per his letter dt. 20.09.1990 (Ext.W.7/3) to the RLC ©, Dhanbad's letter dt.17.11.1990 (Ext. W. 7/2) in response to the letter dt. 20.09.1990 of Shri R. K. Prasad, present President of Bihar Shramik Sangh related to irrelevant matter of working as Sri Raghunath Balmiki and 115 others Safai workers in Bhuli Township during Oct., 1978 to Feb., 1986 had clearly introduced with the decision of the Management to engage workers under Co-operative Societies only registered under the Co-operative Act and its notice to that effect given by the B.T.A. which should

not be interpreted otherwise by the Present Union.

As such, it goes clear that the sanitation work is being carried out by the Management of B.T.A. through only the Co-operative Societies registered under the Co-operative Societies Act as per the circular concerned. The instant Union Representative appears to have completely been failure in proving the main allegation.

6. As to the second issue about the registration of the present Union concerned under the Co-operative Societies Act or not, the instant Union Representative appears to be devoid of any pleading or any evidence of it at this point. The evidence of WW1 Jyoti Devi, one of alleged 51 workmen as firstly enlisted in the written statement of the Union concerned, affirms herself as a member of the present Bihar Shramik Sangh, though they had formed the Co-operative 'Thikha Mazdoor Sangh, Bhuli, Dhanbad in the year 1990. Whereas the statement of WW2 Babal Pd. Lal Retd. Gr.II, Bhuli, BCCL, still living in the Qr. No. 4038 Block at Bhuli of M/s. BCCL Indicates his unawareness of whether the Union is registered or not; he is not a member of the Union, and the Union has no office.

From the aforesaid facts, it appears that the present Union concerned is evidently not a society registered under the Co-operative Society registered under the Co-operative Society Act as required under the Circular dt.13.03.1993 of the OP/Management for the engagement of local workers only through a registered co-operative Society. In result, the instant Union has no locus standi to raise the industrial dispute. Union, Representative by filing it tends to a have a wild goose chase for his own sake only.

7. The third issue is related to entitlement of the workmen concerned to any relief. If it is looked at it as incidental to the nature of the industrial dispute under adjudication, it may be their engagement only through a Co-operative Society and the same be registered under the Co-operative Societies Act. But quite contrary to the

nature of the instant Industrial Dispute, the claim of the Union/workmen concerned for unpleaded regularization in the Municipal Services of the B.T.A., Bhuli, based on their alleged working under the Management in the year 1982 onwards apparently appears to be quite beyond the issue under consideration, as the only four photocopies of the Certificates, namely, of Smt.Santra Devi, Sri Birendra Kumar,Smt.Kalwanti Devi and Srnt.Jyoti Devi (Ext. W.1 to 4 series respectively) allegedly issued by the Personnel Manager of M/s. BCCL on 15/16.9.1983 relate to the working as General Mazdoor and sweeper since 1979 till 1979 prior to the aforesaid Circular in issue.

Besides other documents (Ext.W.10 to 31) including those of Sri Birendra Basfore and 52 others, 444 workmen and one Hanuman Chandra Balmiki and 74 others released to the Ref.Nos. 48/82 and 48/91, and that of continuation of enquiry dt.11.12.10 regarding the awards of the aforementioned Ref.Nos. as well as of Ref.No.165/93 and 141/92, relating to 175 workmen appear to be the intrusion of the aforesaid irrelevant facts by the union Representative for grinding his own axe on the pretest of welfare to innocent workers. These documents of the union concerned are quite irrelevant to it, hence beyond the scope of the reference under adjudication. Hence they are not considerable in the case.

In result, it is, in the terms of the reference, responded and accordingly, awarded that the Safai work is being carried out by the Management of Bhuli Town Administration of M/s. BCCL through Co-operative Societies concerned, but not of their own organization, in compliance with the Circular dt.13.03.1990 of the O.P/Management .It is quite fair and justified. Since the instant union concerned is not a Co-operative Society registered under the Co-operative Societies Act, the alleged workers of alleged cooperative Societies being too vague are not entitled to any kind of reliefs.

KISHORI RAM, Presiding Officer